

IN THE HIGH COURT OF TANZANIA
AT IRINGA

(DC) CIVIL APPEAL NO. 3 OF 2006
(Original Civil Case No. 5 of 2000 of the Resident
Magistrate's Court of Iringa at Iringa)
Before: M. A. Kwariko – R.M.

DOMINIC B. FRANCIS NGOWI APPELLANT
VERSUS
DANIEL MSIGWA RESPONDENT

R U L I N G

KAIJAGE, J.

The appellant, DOMINIC BONEVENTURA FRANCIS NGOWI, was a losing party in Iringa District Court Civil Case No. 5 of 2000. The present ruling is subsequent to the following main preliminary points of objection raised on behalf of DANIEL MSIGWA, the respondent, in his reply to the appellant's Memorandum of appeal:

1. That, the instant appeal, as presented, is hopelessly time barred in terms of S. 3 (1) (2) (b) and Article 1, Part II to the First Schedule of the Law of Limitation Act, the

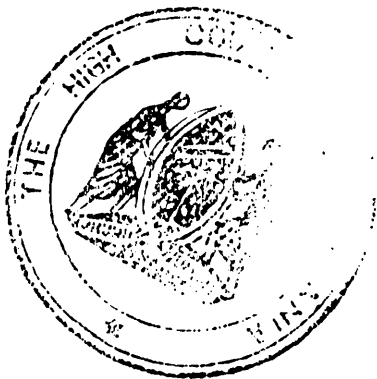
same having been filed in this court on 20th April, 2006.

2. The appeal has been preferred/filed in this court after a spell of almost 436 days from the date of the judgement and decree of the trial court.

On 29th August, 2006, leave was granted to learned counsel for the parties to argue the said main points of objection by way of written submissions.

It is conceded, on behalf of the appellant, that the latter's purported appeal is hopelessly out of time. Admittedly, the appeal is violative of Item 1, Part II of the Schedule to the Law of Limitation Act (Cap. 89 R.E. 2002). Appellant's appeal is, therefore, not proper before this court. It is incompetent. Accordingly, it is hereby dismissed in terms of the provisions of S. 3 (1) of the same Act.

There being no cogent material before me on the basis of which costs could be justifiably waived, I hereby direct that costs should follow the event.



A handwritten signature in black ink, appearing to read "S. S. Kaijage", with a long horizontal flourish extending to the right.

S. S. KAIJAGE

JUDGE

27/2/2007

Delivered this 27th day of February, 2007 in the presence of Mr. Mwakingwe learned counsel for the respondent and holding brief of Mr. Mushokorwa, learned counsel, for the appellant.



S. S. KAIJAGE

JUDGE

27/2/2007