

**IN THE HIGH COURT OF TANZANIA**

**LABOUR DIVISION**

**AT DAR ES SALAAM**

**MISC.APPEAL NO.48 OF 2014**

**BETWEEN**

**JUDICATE RUMISHAEL & 64 OTHERS..... APPLICANT**

**VERSUS**

**THE GUARDIAN LIMITED..... RESPONDENT**

**RULING**

*10/09/2014 & 26/09/2014*

**S.A.N. Wambura, J.**

The applicants **Judicate Rumishael and 64 Others** filed an application by the way of notice and chamber summons under the provisions of section 57 of the Labour Institutions Act No. 7/2004, Rule 24 (1) of the Labour Court Rules (G.N 106 of 2007), section 5(1) of the Appellate Jurisdiction Act, 1979 and Rule 45(a) of the Court of Appeal Rules, 2009 seeking leave to appeal against the decision of High Court of Tanzania( Labour Division) at Dar es Salaam. The application was supported by an affidavit sworn by one **Florence Pantalina Ernest** Advocate for the applicant.

The respondents **The Guardian Limited** did not file a counter affidavit challenging the application.

At the hearing of the matter both parties were represented where by Ms. Ernest and Mr. Edward Benson Advocates appeared for the applicant, Mr. Manento Advocate appeared for the respondents.

Ms. Ernest submitted that they were late to file this application for leave to appeal to the Court of Appeal as they filed an application within time but the same was struck out for being incompetent before the court.

In his reply Mr. Manento submitted that the applicants have not adduced good reasons to be granted extension of time, despite of the fact that they did not file a counter affidavit to challenge the application.

However, I am of the view that, the applicants ought to have filed an application for extension of time at the Court of Appeal of Tanzania which has jurisdiction to entertain the matter and not before this Court. This is in view of a recent decision of the court in the case between **Bulyankulu Gold Mine (T) LTD and Nicodemes Kajugu & 1511 others**, Application No. 37/2013 which gave reference to the case of **Chama cha Walimu Tanzania Vs. The Attorney General**, Civil Application No. 151 of 2008 in

which the Court held that the applicants had an automatic right of appeal on a point of law by virtue of Section 57 of the Labour Institutions Act,2004.

In the circumstances, this application is hereby struck out of the court registry. Applicants are advice to refile the same at the Court of Appeal.



S.A.N. Wambura

**JUDGE**

26/9/2014