

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF ARUSHA
AT ARUSHA**

MISC- CRIMINAL APPLICATION NO. 94 OF 2017

(C/F District Court of Arumeru at Arumeru Criminal Application No. 37/2017)

SAMSON NJARAAAPPLICANT

VERSUS

SAMORAI LOOTHA.....RESPONDENT

RULING

Date of Last Order: 02/07/2018

Date of Ruling: 30/07 2018

BEFORE: MOSHI, JUDGE

The application is brought under section 30 (1) (a) of the Magistrates Court Act Cap. 11 R.E.2002. The applicant is praying for the following orders:-

" That this honorable court be pleased to call records of Arumeru District Court in Misc. Criminal Application No. 37/ 2016 to inspect and revise the proceedings and decision made therein in which the applicant's application for transfer of criminal case from Primary court to District Court was dismissed without genuine reasons."

The applicant was represented by Ms Kimale advocate while the respondent appeared in person.

The application was supported by an affidavit and the respondent filed a counter affidavit whereby the respondent in paragraph 11 also conceded that they both need representation.

The court ordered the parties to file written submissions however the respondent did not file his submission; hence I have applicant's submission only. I have considered applicant's submission and the court's record as a whole. It is obvious that both parties attempted to have the case transferred to the District court but in vain. The District court reasoned that it could not entertain the application because earlier on the court had dismissed respondent's application of the same nature between the same parties in Application No. 20/2016. Secondly, he reasoned that, the applicant herein had raised objection of transfer of the case to District Court in application NO. 20/2016. So the court found that the parties were deploying delaying tactics. He thus dismissed the application.

The proceedings show that the parties were heard. A decision was given and parties were given a right of appeal. They did not appeal against the decision instead the applicant filed a revision. I do not see any improprieties in the proceedings that can prompt me to revise the proceedings. If the parties were aggrieved by the decision they ought to have of appealed but they did not exercise that right.

That said, I dismiss the application. I order that the case file be remitted to the primary court so the case can proceed from where it ended.

Right of Appeal is explained.




S.C. MOSHI
JUDGE
30/07/2018