

**IN THE HIGH COURT OF TANZANIA  
(DAR ES SALAAM DISTRICT REGISTRY)**

**AT DAR ES SALAAM**

**CIVIL APPLICATION NO. 651 OF 2017**

*(Originating from Appeal No. 234 of 2017 of the High Court of (T) AT Dar es Salaam Honorable  
R.K Sameji dated 29<sup>th</sup> September, 2017)*

**EVARISTA KISAKA ..... APPLICANT**

**VERSUS**

**VICENT GODFREY ..... 1<sup>ST</sup> RESPONDENT**

**DEODATUS DEUDATUS MREMI ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

This is an application by the Applicant one Evarista Kisaka for leave to appeal to the Court of Appeal of Tanzania. The application which has been preferred under S. 5 (1) (c ) of the Appellate Jurisdiction Act [Cap 141 R.E 2002] is supported by an affidavit duly sworn by the Applicant.

According to paragraph 7, 8 and 9 the reasons in support of the application are that the Hon. Judge overlooked the evidence on record and as such she came the decision which the Appellant considers to have caused miscarriage of justice.

Further, that the decision of this Court was based on irrelevant evidence which the Applicant believes that it was to her prejudice and lastly that this Court did not consider the damage sustained by the Applicant which was caused by the Respondents' negligence.

I have considered the application and the grounds in support thereof and I am satisfied that the grounds are sufficient to enable the applicant obtain leave to go to the Court of Appeal.

Besides, the application has not been resisted by the Respondents who have neither appeared in Court nor filed their counter affidavits to deny the facts averred in the Applicant's affidavit. For those reasons, the application is allowed and leave to the Applicant to appeal to the Court of Appeal of Tanzania is granted. She should, however, abide by the limitation period prescribed by law.

Costs to be in the appeal. Order accordingly.



A handwritten signature in blue ink, appearing to read "W.P. Dyansobera".

**W.P. Dyansobera**

**JUDGE**

**10/07/2018**