

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

**AT DAR ES SALAAM**

**PC CIVIL APPEAL NO. 112 OF 2019**

*(Arising from the decision of Kinondoni District Court in Civil Appeal No. 58 of 2018 Hon. A.A. Mwingira,  
RM Originating from the decision of the Primary Court in Probate Cause No. 166 of 2017 H. Furutuni RM)*

**1. MOHAMED OMARI  
2. ZAHORO OMARI  
3. KIDAWA OMARI  
4. KAGENI OMARI**

.....**APPELLANTS**

**VERSUS**

**JUTORAM KABATELE MAHALLA**

**@ JURORAM R. KABATELE.....RESPONDENT**

**RULING**

*Date of last Order: 21/08/2019*

*Date of Ruling: 23/10/2019*

**MLYAMBINA, J.**

This is an appeal arising from the decision of the Kinondoni District Court in Civil Appeal No. 58 of 2018 delivered on 20<sup>th</sup> may, 2019.

The respondent has raised a plea in *limine litis* to the effect that; *the appeal is hopelessly time barred*. In his oral submission the respondent told the Court that the impugned decision was delivered on 20<sup>th</sup> May, 2019. The 30 days appeal time expired on 19<sup>th</sup> June, 2019 but the appellants lodged their appeal on 20<sup>th</sup> June, 2019. The same was admitted on 21<sup>st</sup> June, 2019 which was a


delay of two days. The respondent, therefore prayed the appeal be dismissed with costs for being time barred.

The 1<sup>st</sup> appellant in reply told the Court that they lodged their Appeal on 17<sup>th</sup> June, 2019 but the receipt was issued on 20<sup>th</sup> June, 2019. In view of the 1<sup>st</sup> appellant the appeal was lodged within time.

From the submissions of the parties, it appears both parties are not in dispute that in terms of *Section 25 (1) (b) of the Magistrates Courts Act* an appeal from District Court to this Court has to be lodged within 30 days (Also, see the case of *Dharau Mussa (Administrator of the Estate of deceased Abdallah Salum Nkumba v. Mwema Mwingi (administrator of the late Atujuani Abdallah SalumMkumba) Misc. Civil Application No. 565 of 2017 (unreported)*).

Having gone through the records, I noted the instant appeal was lodged before the District Court Registry of Kinondoni on 20<sup>th</sup> June 2019. It was admitted on 21<sup>st</sup> June, 2019. As such, it follows true that the appeal is hopelessly time barred in terms of the provisions of *Section 25 (1) (b) of the Magistrates Courts Act (supra)*

In the events I hereby uphold the Preliminary objection and proceed to dismiss the appeal with costs for being hopelessly time barred. It is so ordered.



**Y. J. MLYAMBINA**  
**JUDGE**  
**23/10/2019**

Ruling delivered and dated this 23<sup>rd</sup> day of October, 2019 in the presence of the 1<sup>st</sup> appellant in person and in the presence of the respondents.



**Y. J. MLYAMBINA**  
**JUDGE**  
**23/10/2019**