

**IN THE HIGH COURT OF TANZANI
IN THE DISTRICT REGISTRY OF SHINYANGA
AT SHINYANGA**

DC. CIVIL APPEAL NO.16 OF 2017

*(Arising from Misc. Civil Application for execution No.4 of 2017, District Court of
Shinyanga)*

ALEX E. MALAGI.....APPELLANT

VERSUS

ABDUL HASSAN JUMA.....RESPONDENT

*(Adminstrator of the estate of the late
Juma Hassan Juma)*

RULING

4/12/2019 & 29/1/2020

G.J. Mdemu,J;

By an order of this court dated 13th of November, 2019, this appeal was to be disposed by way of written submission. The Appellant filed his written submission on 19th of November 2019, while the Respondent before filing his written reply on 26th of November,2019, drew the attention of this court in the following version:

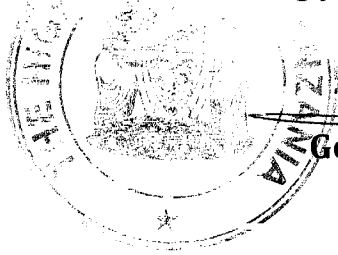
However, before the Respondent could file his reply to the written submission, the judgment for misc. civil application No.4 of 2017 of the District Court of Shinyanga at Shinyanga, which is the subject matter of this appeal, was nullified in civil appeal No.14 of 2017 by this court in its ruling dated 25th of November 2019 before his Lordship C. P. Mkeha, J.

I have noted in the attached ruling of my learned Brother Mr. Mkeha J. that, the appeal disposed before him, that is civil appeal No.14 of 2017 is not the same appeal before me, now registered as Civil Appeal No.16 of

2017. However, the two appeals intend to challenge the same decision in Civil Application No.4 of 2017 as each part got aggrieved by the decision of that court and appealed accordingly. I do not find harm in this.

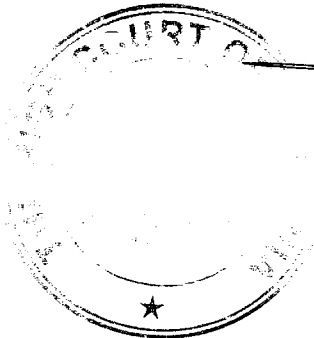
In Civil appeal No. 14 of 2017 before Mkeha, J. parties are Abdul Hassan Juma (Appellant) and Alexa E. Malagi (Respondent). The other appeal before me parties are Alex E. Malagi (Appellant) and Juma Abdul Hassan Juma (Respondent). It is not therefore correct a submitted by the Respondent that, the appeal is one and the same. The practice would have been that, the two appeals be heard by one Judge. However, as my learned brother Mkeha, J. remitted the matter to the executing court, for consistency, and without causing unnecessary confusing and misunderstanding to litigants, is not safe to proceed with hearing the appeal.

As such, the instant appeal is hereby struck out. No order as to costs. It is ordered accordingly.



Gerson J. Mdemu
JUDGE
29/01/2020

DATED at SHINYANGA this 29th day January, 2020.



Gerson J. Mdemu
JUDGE
29/01/2020