

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

**AT DAR ES SALAAM**

**MISC. CIVIL APPLICATION NO. 417 OF 2019**

*(Originated from Civil Appeal No. 200 of 2018)*

**LEILA HASSAN MAVERE.....APPLICANT**

**VERSUS**

**HARUNA MAVERE.....RESPONDENT**

**RULING**

*Date of last Order: 08/10/2019*

*Date of Ruling: 19/02/2020*

**MLYAMBINA, J.**

The applicant is seeking for leave to appeal to The Court of Appeal against the decision of this Court in Civil Appeal No. 200 of 2017 which is about division of matrimonial properties.


When the matter was called for mention on 8<sup>th</sup> October, 2019 in the presence of Esther Masha, Advocate holding brief of Mrs. William, Advocate for the respondent, the Court ordered the respondent to file counter affidavit by 22/10/2019, reply by 29/10/2019 and hearing was set on the 19<sup>th</sup> day of February, 2020.

It is very unfortunate the respondent never complied with the order of the Court. This Court in the case of *Fredrick. A.M Mutafurwa v. CRDB 1996 Ltd and Others* Land Case No. 146 of 2004 unreported)

made it clear that “practice of filing submissions is tantamount to hearing”.


As submitted by counsel Albert Mulokozi Mkoyogo, the act of the respondent of not filing counter affidavit means that the respondent has conceded to the application.

In the event of the foregoing, the application for leave to appeal to The Court of Appeal against the judgement of this Court in Civil Appeal No. 200 of 2017 is hereby granted as prayed. Costs shall follow events.



**Y. J. MLYAMBINA**  
**JUDGE**  
**19/02/2020**

Dated and delivered this 19<sup>th</sup> day of February, 2020 in the presence of counsel Albert Mulokozi Mkoyogo for the Applicant and the respondent being absent.



**Y. J. MLYAMBINA**  
**JUDGE**  
**19/02/2020**