

IN THE HIGH COURT OF TANZANIA
(DISTRICT REGISTRY OF SUMBAWANGA)

AT SUMBAWANGA

MISC. CIVIL APPLICATION NO. 08 OF 2018

(Arising from District Court of Sumbawanga Civil Case No. 22/2016)

SUMBAWANGA DISTRICT COUNCIL APPELLANT

VERSUS:

FASAHA BLUE COFFEE CO. LTD RESPONDENT

RULING

02/07/2020 & 24/8/2020

W. R. Mashauri, J.

This is an application for Revision of the order of the Sumbawanga District Court in Civil Case No. 22 of 2016, which was delivered by the trial court Sumbawanga District court on 20/02/2017 on which the District court dismissed the applicant's case for want of prosecution.

For no appellant reasons, the applicant has brought this application under 79(I)(c) (2) and Section 95 of the Civil Procedure Code (Cap. 33 RE: 2002)

Section 79(I) (c) and (2) provides thus:

79 – (I) (c) The High court may call for the record of any case which has been decided by any court subordinate to it and in which no appeal lies thereto, and if such subordinate appears:-

(c) To have attending the exercise of its jurisdiction illegally or with material irregularity.

(2) Notwithstanding the provisions of subsection (I), no application for revision shall lie or be made in respect of any preliminary or interlocutory decision or order of the court unless such decision or order has the effect of finally determining the suit.

The order of the District Court as I have shown it above is dismissing the applicant's case for want of prosecution.

Before the commencement of arguing this application, parties were granted leave to dispose of the application by filing written submissions.

It is the applicant who has filed his written submission in support of his application, and the respondent did not do so.

Even if without going through the appellant's written submission I have found it a vacuum in which the applicant is duty bound to fill it.

It is not shown in the applicant's submission nor in his sworn affidavit that, the dismissal of the applicant's suit for want of prosecution by the District Court was done by the subordinate court in the exercise of its material irregularity.

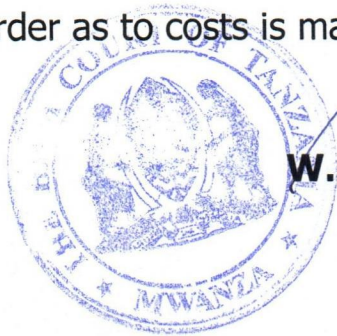
In this matter the dismissal order given by the District has no effect of finally determining the suit.

It is therefore cardinal principle at law that, no application for revision shall lie or be made in respect of any preliminary or interlocutory decision or

order of the court unless such decision or order has the effect of finally determining the suit.

Since the order of dismissal of the case for want, of prosecution has no effect of finally determining of the suit the application for revision cannot lie. The application was mistakenly filed in this court under S. 79 (I) (c) and (2) of the CPC Cap. 33 RE: 2002 which is a wrong section of the law. In the event the application is hereby struck out.

No order as to costs is made.




W. R. MASHAURI
JUDGE

Date: 24/8/2020

Coram: Hon. W. R. Mashauri, J

Applicant: Present

Respondent: Present

B/c: Felister Mlolwa, RMA

Court: Ruling delivered in court in all parties this 24/8/2020.

Right of appeal explained.



W. R. MASHAURI

JUDGE

24/8/2020