

IN THE HIGH COURT OF TANZANIA

AT MTWARA

DC. CIVIL APPEL NO. 9 OF 2019

(Originating From Civil Case No. 3 Of 2020 In Ruangwa District Court)

ATASHASTA OWEN.....APPELLANT

VERSUS

SIMON CYPRIAN MANJULUNGU.....RESPONDENT

RULING

There is no dispute that the appeal filled by the appellant has been resisted by the respondent by way of the PO. Also not disputed is the fact that the appeal has been in contravention of law as it is not accompanied by a copy of the decree appealed from.

This, Mr. Mohamed Manyanga, learned I advocate for the appellant has conceded to.

It is prayed on part of the respondent that the appeal be struck out with costs.

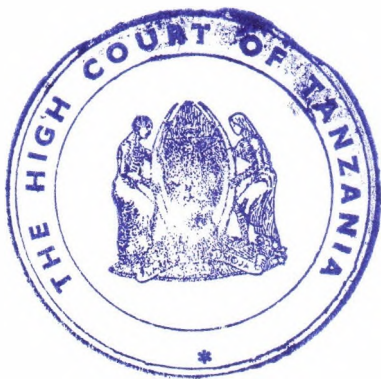
Mr. Manyanga maintains that the court of first instance failed to supply them with a copy of the decree and that if the court decides to struck out the appeal then that should be without costs and order the court to supply him with the decree.


I think Mr. Songea is right. This appeal was filed in contravention of the law. For that matter, it is incompetent. The consequences is to be struck out.

Since this court is not seized with the original record of the trial court, the prayer on part of the appellant to be supplied with a copy of the decree can not be granted.

Since the applicant was aware of the legal consequences of filing an appeal in contravention of the law, he cannot blame if he is condemned to meet costs for this matter.

Consequently, the appeal is struck out with costs to the respondent. PO is upheld.




W.P. DYANSOBERA

JUDGE
17.11.2020