

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

DC. CIVIL APPEAL NO. 05 OF 2017

(Arising from Bariadi District Court Civil Case No. 18 of 2014)

BARIADI DISTRICT COUNCIL.....APPELLANT

VERSUS

HOJA MAPILYA LISSORESPONDENT

RULING

24th March, 2020

G. J. MDEMU, J.;

The court noted *suo moto* that, the appeal is out of time. Judgement subject to this appeal was delivered on 17/3/2016 and it was ready for collection on 17/5/2016. This appeal was filed on 25/4/2017.

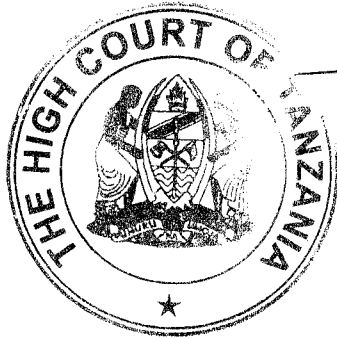
Mr. Raymond Cosmass, learned solicitor when invited to address the court stated that, he be given time to file another appeal. Mr. Buberwa, on the other hand, who appeared for the Respondent submitted that, in terms of section 14(1) of the Law of Limitation Act, Cap. 89, the Appellant would have applied for extension of time to file the instant appeal instead of appealing.

I am in all fours with Mr. Buberwa that, the Appellant should have moved this court to have an application to extend time within which to appeal be determined. He was not supposed to appeal instead. The prayer for the Appellant to have this court extend time cannot be entertained at this hour for this is not an application of that nature so to speak.

It as it may, the remedy available for an appeal filed out of time in terms of the provisions of section 3 of the Law of Limitation Act, Cap. 89 is to dismiss the appeal, as I hereby do. Each part to bear own costs of the appeal. I order accordingly.

G. J. Mdemu
JUDGE
24/03/2020

Dated at **Shinyanga** this 24th day of March, 2020.



G. J. Mdemu
JUDGE
24/03/2020