

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

LAND CASE REVISION NO. 1 OF 2019

LAZARO ROSA AKUKUAPPLICANT

VERSUS

NMB BANK PLC RORYA RESPONDENT

(Arising from Misc No. 309/2017 of Tarime District Land and Housing Tribunal)

REASONS FOR STRIKING OUT THE APPLICATION

29/4/ & 12/5/2020

Kahyoza, J

On the day the application was set for hearing, this Court struck out the application and reserved its reasons. I, now giving the reasons.

The applicant, **Lazaro Rosa Akuku** filed to this Court an application for revision under S. 43(1) a, b, and (2), and S. 43 (1) and (2) of the **Land Disputes Court Act, [Cap. 2019]** and Rule 7(1) and (2) of the **Advocates' Remuneration Order G.N. No. 264/2015**. Briefly, the background to the application is that; the applicant was a respondent in an application for bill of costs instituted by NMB Bank PLC Rorya(the bank). The District Land and Housing Tribunal taxed the bank's bill of costs at Tshs. 2,524,000/= . The decision was given on the 17th/1/2019. The applicant was aggrieved by that decision.

On the 21/2/2019, Lazaro Rosa Akuku the judgment debtor instituted to this Court an application for Revision, seeking this Court to revise the decision of the taxing officer.

On the date fixed for hearing, I called upon the parties to address the Court whether it was proper for Lazaro Rosa Akuku to file an application for revision against a decision of a taxing officer.

Lazaro Rosa Akuku, the applicant a lay person had nothing to comment.

The respondent's advocate Mr. Gwakisa contended that the applicant was required to file a reference and not an application for revision. He referred this Court to rule 7 of the Advocate's Remuneration Order G. N 264/2018.

In his rejoinder the applicant contended that he had an advocate.

After hearing the submissions, I struck out the application and reserved the reasons. The law is settled that a person aggrieved by the decision of taxing officer is required to **file a reference to the Judge of the High Court** and to do so within 21 days. This is in accordance with rule 7 of the **Advocates Remuneration Order** G.N. No. 263/2015. Rule 7 provides that-

"7(1) Any party aggrieved by a decision of the Taxing officer, may file reference to a judge of the High Court.

*(2) A reference under order(1), shall be instituted by way of chamber summons supported by an affidavit and be filed **within 21 day of from the date of the decision.***

(3) The applicant shall within seven clear days of filing taxation.

(4) For purpose of service under sub order (3), it shall be sufficient if the chamber summons has been endorsed and stamped by the Registry Officer".


It is vital that Rules of procedures must be complied with. I am fortified in my opinion by the decision in the English Case **Castellow V Somerset County Council [1993] 1 ALL E. R. 952** where it was held that-

"Rules of Court and the associated Rules of practice, devised in the public interest to promote the expeditions dispatch of litigation, must be observed"

I will add that a party who opts to approach the courts of law must do so in compliance with the rules of procedures. He cannot resolve to approach the courts of law and apply his own procedure.

For reasons stated above, I hold that application for revision against the decision of the taxing officer is not properly before this Court. It is incompetent. The applicant can challenge the decision of taxing officer by filing a reference not an application for revision. The application is accordingly struck out with costs to respondent.

It is so ordered.



J. R. Kahyoza

JUDGE

12/5/2020

Court: Ruling delivered in the absence of the parties with leave, this 12th May, 2020. B/C Catherine present.



J. R. Kahyoza

JUDGE

12/5/2020