

**IN THE HIGH COURT OF TANZANIA
DAR ES SALAAM REGISTRY
AT DAR ES SALAAM
MISC CIVIL APPLICATION NO. 408 OF 2020**

**HAJI SHABANI KIBWANA APPLICANT
VERSUS
TABU RAMADHANI MATAKA RESPONDENT**

Date of last Order: 10/02 /2021

Date of Ruling: 09/04/2021

R U L I N G

MGONYA, J.

The Application before the court is for this Honourable Court be pleased to grant leave to the Applicant to appeal to the Court of Appeal of Tanzania against the whole decision of the High Court of Tanzania Dar es Salaam District Registry in **PC Civil Appeal No. 145 of 2019** dated 17th July, 2020 before Hon. J. L. Masabo, J.

The Chamber Summons has been taken at the instance of **JAMHURI & CO ADVOCATES** and is supported by an affidavit of **EZEKIEL JOEL NGWATU**, the Applicant's Advocate.

Submitting on the application, the Applicant's Counsel submitted that as per the Affidavit's contents, the applicant is intending to appeal to the Court of Appeal on various issues of law against the above decision which shall include among others, two major points as follows:

- (a) That the Trial Judge erred in law and fact by not employed her mind to the Applicant's grounds of appeal hence ended up in wrong decision by dismissing the same.***
- (b) That the Trial Judge erred in law and fact by not exercising judiciously his powers conferred to her by failure to intervene the Trial Courts decision, re-evaluate evidences on records and not conferred to the nature of Applicant's complain against the Respondent hence ended up in dismissing appeal.***
- (c) That the decision of this Honourable Court is fully of illegalities and irregularities in which Court of Appeal invited to intervene them.***

The Learned Counsel was of the view that those grounds are pertinent issues that have to be determined by the Court of Appeal of Tanzania. Counsel also submitted that the grounds also qualifies

to prosper for an arguable appeal. In support of his argument, made the reference to the Eastern Africa Court of Appeal case of ***SANGO BAY ESTATE LTD & OTHERS V. DRENSDER BANK [1974] EA 17***, where leave to appeal was granted for the contiguous matter of law and that there was a fit case for further consideration by the Court of Appeal. Thus the Applicant prayed for the application to be granted.

In reply, the Respondent through her Learned Advocate submitted that, Hon. Masabo's judgment was ruled basing on the law and legal reasoning. In the event therefore, it is their conclusion that Hon. Judge did not error in any way as alleged by the Applicant. From the above observation, the learned Counsel for the Respondent was of the view that the application is misconceived.

Further, responding to the two points of law proposed to be determined by the Court of Appeal if leave is granted, the learned Counsel was of the view that there is no any tangible reasons for the same to be determined by the Highest Court of the Land. He thus prayed for the application be dismissed.

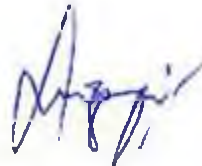
In determining this matter, let me start by saying that, it is a trite law that an application for leave to appeal to the Court of

fit and they deserve scrutiny, attention and determination by the Highest Court of the Land.

In the light of the above, **leave to appeal to the Court of Appeal of Tanzania is hereby and accordingly granted.**

It is so ordered.

I make no order as to costs.



L. E. MGONYA
JUDGE
09/04/2021



COURT: Ruling read before me in my chamber in the presence of Mr. Ezekiel Joel, Advocate for the Applicant, also Mr. Ezekiel Joel holding brief for Mr. Ludovick, Advocate for the Respondent and Ms. Msuya RMA on this 09th day of April, 2021.



L. E. MGONYA
JUDGE
09/04/2021

