



**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF BUKOBA
AT BUKOBA**

MISC. LAND APPLICATION NO. 35 OF 2019
(Arising from Land Appeal No. 12 of 2016)

**TANZANIA ELECTRIC SUPPLY COMPANY
LTD.....APPLICANT**

VERSUS

**BARTHAZAR A.
RWEZAURA.....RESPONDENT**

RULING

Date of last order 24/02/2021

Date of ruling 17/05/2021

Kilekamajenga, J.

The applicant lodged the instant application seeking leave to appeal to the Court of Appeal of Tanzania. The application was made by way of chamber summons supported with an affidavit deposed by the applicant's principal officer, Mr. Twaha Kisaka. The application was made under **section 47(2) of the Land Disputes Courts Act, 2002** and **Rule 45(a) of the Tanzania Court of Appeal Rules of 2009**. When the parties appeared to argue the application, the learned advocate, Ms. Theresia Masangya appeared for the applicant whereas the respondent enjoyed the legal services of the learned advocate, Miss Gisera Rugemarila.

During the oral submission, the counsel for the applicant argued that, on 29th January 2016, the applicant lost the case before the District Land and Housing Tribunal prompting an appeal to this Court. Before this Court, the respondent raised an objection on the point that the appeal was made out of time. As a result, the appeal was dismissed based on the point of preliminary objection. Therefore, the applicant had no room to argue the case on merit. The counsel argued further that the applicant has good reasons for the delay and the case is of public importance and there are chances of success if the appeal is heard on merit.

In response, the counsel for the respondent did not object the application and urged the Court to grant the application for the case to be determined on merit.

On whether or not this Court should grant leave to appeal to the Court of Appeal of Tanzania, there must be factors to be considered. In the case of **Rutagatina C.L. v. The Advocates Committee and Clavery Mtindo Ngalapa, Civil Application No. 98 of 2010**, the Court of Appeal of Tanzania stated that:

An application for leave is usually granted if there is good reason, normally on a point of law or on a point of public importance, that calls for this Court's intervention.


The above principle of law was further amplified in the case of **Harban Haji Mosi and Another v. Omar Hilal Seif and Another, Civil Reference No. 19 of 1997** (unreported) which was quoted with approval in the case of **Rutagatina** (*supra*) thus:

Leave is grantable where the proposed appeal stands reasonable chances of success or where, but not necessarily, the proceedings as a whole reveal such disturbing features as to require the guidance of the Court of Appeal. The purpose of the provision is therefore to spare the Court the spectre of unmeriting matters and to enable it to give adequate attention to cases of true public importance.

I have perused the file of this case and found out that the nature of the case demands the intervention of the Court of Appeal of Tanzania. I therefore find prudent to allow the application for the Court of Appeal of Tanzania to determine the case on merit. No order as to costs. Order accordingly.

DATED at BUKOBA this 17th Day of May, 2021.




Ntemi N. Kilekamajenga.
JUDGE
17/05/2021

Court: Ruling delivered in the presence of the counsel for the applicant
this 17/05/2021.




Ntemi N. Kilekamajenga.
JUDGE
17/05/2021