

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF MUSOMA**

AT MUSOMA

CIVIL APPEAL NO. 1 OF 2021

AIRO MASUDI APPELLANT

VERSUS

JARED NGUKA AREGO RESPONDENT

**(Appeal from the ruling of the District Court of Tarime
at Tarime in Civil Case No. 2 of 2020)**

RULING

18th May and 4th June, 2021

KISANYA, J:

In the District Court of Tarime at Tarime, the appellant, **Airo Masudi** applied for bill of costs arising from the decisions of the Tarime District Court in **Civil Appeal No. 28 of 2001**, originating from Shirati Primary Court in **Civil Case No. 3 of 2001**. At first, both cases had been decided in favour of the respondent, **Jared Nguka Arego**. However, on 17th April, 2008, the High Court of Tanzania, Mwanza District Registry through (PC) Civil Appeal No. 3 of 2002 quashed and set aside both decisions with costs.

The High Court's decision prompted the appellant to lodge the application for bill of costs on 11th February, 2020. It was contested by the

respondent via the notice of preliminary objection on the following points of law:

- 1. That, the application was bad in law for not containing certificate as to folios as required by the law.*
- 2. That, the application was bad in law for mixing bills of costs delivered by different courts*
- 3. That the application was time barred.*

The District Court sustained all points of preliminary objection and dismissed the application with costs. Aggrieved, the appellant lodged a memorandum of appeal to this Court.

With that background, when this matter was called on for hearing on 18th May, 2021, I probed the parties to address the Court whether the appeal was competent before the Court. This issue was premised on the provisions of paragraph 7 (1) of the **Advocates Remuneration Order, 2015**, G. N. No. 263 of 2015, which requires a party aggrieved by a decision of the taxing master to file reference.

The parties who appeared in person had no useful submission on this legal issue. They urged me to decide it according to the law.

I have considered the record and the appeal at hand. It is a common ground that the appellant applied for bill of costs and that the objection which led to the ruling of the District Court relates to bill of costs. Therefore, an aggrieved party was required to file reference to this

Court within 21 days from the date of impugned decision. This is pursuant to order 7 (1) and (2) of the **Advocates Remuneration Order, 2015** (supra) which provides: -

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

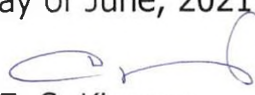
(2) A reference made under (1), shall be instituted by way of chamber summons supported by an affidavit and be filed within 21 days from the date of the decision."

Since the recourse to the person aggrieved by the decision arising from application for bill of costs is to lodge reference to a judge of the High Court, I find the present appeal incompetent before the Court.

In view thereof, the appeal is hereby struck out. I make no order as to costs because the issue of competence of this appeal was raised by the Court, *suo motu*. Ordered accordingly.



Dated at MUSOMA this 4th day of June, 2021.


E. S. Kisanya
JUDGE

COURT: Ruling delivered this 4th day of June, 2021 in the presence the appellant and in the absence of the respondent. Bench Cleark, Mr. Simoni Lubili present.


E. S. Kisanya
JUDGE
04/06/2021