

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE DISTRICT REGISTRY OF BUKOBA)

AT BUKOBA

Misc. LAND CASE APPLICATION No. 10 OF 2020

(Arising from the District Land and Housing Tribunal for Muleba at Muleba in Land Appeal No. 23 of 2016 & Original from Mubunda Ward Tribunal in Civil Case No. 13 of 2013)

1. MROKOZI CHRISTIAN

2. SERIKALI YA KIJIKI KISHOJU } ----- **APPLICANTS**

Versus

ADALAIDA MATHIAS ----- **RESPONDENT**

RULING

15/06/2021 & 15/06/2021

Mtulya, J.:

Mr. Mrokozi Christian and Serikali ya Kijiki Kishoju (the Applicants) have filed the present application seeking enlargement of time to file an appeal to dispute the decision of the **District Land and Housing Tribunal for Muleba at Muleba** (the Tribunal) in **Land Appeal No. 23 of 2016** (the Appeal) in this court. When the application was scheduled for hearing on 5th January 2021 and today in this court, Ms. Adalaida Mathias (the Respondent) decided to invite legal services of learned counsel, Mr. Dionisius Mujuni to protest the appeal whereas the Applicant sought the legal services of learned counsel, Mr. Lameck Erasto in support of the application.

After brief submissions of the parties it came to the display that the Applicant had filed **Land Case Revision No. 10 of 2019** (the Revision) in this court but it was transferred to the **Resident Magistrates' Court of Bukoba at Bukoba (with Extended Jurisdiction)** (the RMs court). The Revision was determined to the finality on 2nd December 2019 and was dismissed with costs. It is from this decision in the Revision, Mr. Mujuni argued that the present application is incompetent before this court as it is seeking enlargement of time to file an appeal out of time in the same court which has already determined the Revision.

To substantiate his claim Mr. Mujuni cited the authority of this court in **F.B.M.E Bank v. John Kengele & Two Others**, Commercial Case Revision No. 1 of 2008 and **Transport Equipment Ltd v. Valambhia** [1995] TLR 161, arguing that the two processes, appeal and revision, cannot be invited interchangeable and cannot be used interchangeably.

In reply of the submission of Mr. Mujuni, Mr. Lameck conceded that he was not aware of the decision of the RMs court in the Revision as he was recently engaged and was not informed by the Applicant on existence of the Revision. To his opinion this appeal may

be struck out without costs in favor of the proper course, including an appeal to the Court of Appeal to dispute the decision of the RMs court in the Revision.

I have gone through and perused the record of this application and visited the two cited precedents in **F.B.M.E Bank v. John Kengele & Two Others** (supra) and **Transport Equipment Ltd v. Valambhia** (supra). The record of this application shows what has been stated by learned counsels and I found a statement at page 9 of the decision in **F.B.M.E Bank v. John Kengele & Two Others** (supra) stating that the two process of appeal and revision cannot be interchangeable invited in the same court.

I have also read holding number two in the precedent of **Transport Equipment Ltd v. Valambhia** (supra) where it was stated that a person, by his own fault has forfeited his right of appeal cannot amount to an exceptional circumstances to warrant invitation of the two processes interchangeably.


Having noted the above precedents and the need of certainty and predictability in decisions of our superior courts in judicial hierarchy, I have formed an opinion to strike out the present application with costs for want of competence as I hereby do.

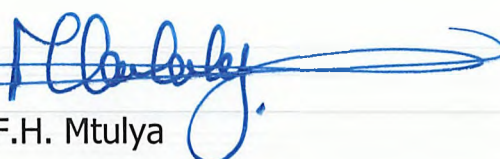
It is so ordered.




F.H. Mtulya
Judge
15.06.2021

This Ruling was delivered in chambers under the seal of this court in the presence of the First Applicant, Mr. Mrokozi Christian and his learned counsel Mr. Lameck John Erasto and in the presence of the Respondent, Ms. Adalaida Mathias and her learned counsel Mr. Dionisius Mujuni.




F.H. Mtulya
Judge
15.06.2021