

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

MISC. CIVIL APPLICATION NO. 107 OF 2021

(C/F High Court of Tanzania at Arusha Civil Application No. 141 of 2017 High Court of Tanzania at Arusha Misc. Civil Application No. 201 of 2016 and The RM'S Court No. 21/2016 vide Civil Case number 86/2015)

JOHN GRAYSON MSHANA.....APPLICANT

VERSUS

PETER MARK MREMA.....RESPONDENT

COURT ORDER

Date: 11/8/2022

Coram: **Hon B.K. Phillip, J**

For the Applicant:

Applicant: Present

For the Respondent: Advocate John Mseu

Respondent

C.C. Paspilikia

Applicant John Mshana

Madam Judge, I am ready to address you on the concern which you raised in the previous session.

Madam Judge, according to the order of this Court issued by Hon Kamuzora , J on 4/11/2021 this application is not time barred because I was allowed to refile this application.

Advocate John Mseu

Madam Judge, on my side, I submit that this application is time barred. According to Rule 45(a) of the Court of Appeal rules an application for leave to appeal to the Court of Appeal has to be filed within 30 days from the date of the judgement or order of the High Court.

The applicant seeks leave of this Court to challenge the decision of this Court made on 31st May 2019 (Hon.Mzuna J). The application in hand was filed on 10/12/2021. The applicant has not obtained leave to file this application out of time. The order made by Hon Kamuzora J, relied upon by the applicant did not grant the applicant to leave to file this application out of time. I pray this application to be dismissed. I don't pray for costs because this issue has been raised by the Court *suo motto*.

Applicant Mshana

Madam Judge, it appears my Advocate Mr. Ombeni Kimaro has not advise me properly. I pray to be allowed to file this application out of time.

COURT: As correctly submitted by the learned Advocate John Mseu, the applicant seeks leave to appeal against the decision of this Court dated 31/5/2019. An application for leave to appeal to the Court of Appeal has to be filed within 14 days from the date of the impugned decision pursuant to Rule 45 (b) of the Court of Appeal Rules. This application was filed on 10/12/2021 more than 14 days from the date of the impugned decision. I have perused the order of this Court made by Kamuzora , J on 4/11/2022. In that order this Court granted the applicant leave to refile his application for leave to appeal to the Court of Appeal subject to the law of

limitation because it did not give the applicant specific days for refiling the application. Under the circumstances, the order made by Hon. Kamuzora , J, cannot be any help to the applicant. It the upshot, this application time barred. Thus, I hereby strike it out . Each party will bear his own costs.



B.K. PHILLIP

JUDGE

11/8/2022

