

**IN THE HIGH COURT OF TANZANIA
IN THE DISTRICT REGISTRY OF DODOMA
AT DODOMA**

MISC. CIVIL APPLICATION NO. 42 OF 2022

1. JUDGE (RTD) EDWARD ANTONY MWESIUMO 2. AGATHA SENYAGWA 3. CHARLES MOSHA 4. MUHIDINI MWIKARI MSHANA 5. JEREMIA SEMBOJA 6. ELIAS MALODA 7. JUMA KACHEMELA 8. KASILATI MWAKIBETE	}	APPLICANTS
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VERSUS

JOEL SAMUMBA.....RESPONDENT

(From the Judgment of the High Court Tanzania at Dodoma)
Dated 15th day of August, 2022
In
DC. Civil Appeal No. 09 of 2021

RULING

17th October, 2022

MDEMU, J.:

In terms of Rule 45 of the Court of Appeal Rules, 2009, an application for leave of appeal to the Court have to be determined where there is notice of appeal lodged.

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In the instant application, the affidavit is silent as to whether notice of appeal was ever lodged. Mr. Nyangarika asked me to grant permission for him to file supplementary affidavit. This is odd.

Since the requirement has not been complied, the application becomes incompetent. In other words, this Court is conferred with jurisdiction to deal with issues of leave to appeal where the Applicant, through an affidavit has indicated to have lodged notice of appeal to the Court of Appeal. It is not the duty of this Court to explore if the notice was in time or not, neither does this Court premised to determine if the notice was filed within the prescripts of the law.

That said, the application is incompetent and is accordingly struck out. If the Applicants so wishes, may file a proper application of which, leave to do so is hereby granted.

It is so ordered.



Gerson J. Mdemu
JUDGE
17/10/2022

DATED at DODOMA this 17th day of October, 2022.



Gerson J. Mdemu
JUDGE
17/10/2022