

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(DODOMA DISTRICT REGISTRY)
AT DODOMA**

MISC. CIVIL APPLICATION NO. 36 OF 2022

(Arising from DC. Civil Appeal No. 13 of 2021 dated 11.6.2022 before ABDI S. Kagomba. J.,
originated from the decision in Civil Case No. 14 of 2020 of the Resident Magistrates' Court of
Singida at Singida)

OMARY MOHAMED NTANDU..... APPLICANT

VERSUS

ELIAS SAMWEL MBURA RESPONDENT

24/10/2022 & 3/11/2022

RULING

MASAJU, J

The Applicant, Omary Mohamed Ntandu, lost DC. Civil Appeal No. 13 of 2021 in this Court to the Respondent, Elias Samwel Mbura, hence the Chamber Summons Application made under section 5(1) (c) (2) (c) of the Appellate Jurisdiction Act, [Cap 141 RE 2019] and Rule 45 (a) of the Court of Appeal Rules, 2009 as amended for leave to appeal to the Court of Appeal of the United Republic of Tanzania.

The Application is supported by the Affidavit by affirmed by the Applicant himself. The Affidavit gives the background and the reasons for the Application in Paragraph 2(i) (ii) of the Affidavit that there are points of

law which should be considered by the Court of Appeal of the United Republic of Tanzania, thus;

"i. THAT, ground for the High Court to upholding the contract the contract was prohibited by the law since the same was the contract for lending money with interest(sic).

ii. THAT, the decision of the High Court is entitled with illegality as the Respondent was neither registered institution nor licensed businessman permitted to issue loans on interest (sic)"

There is a Notice of Appeal to the Court of Appeal of the United Republic of Tanzania as so rightly deponed in paragraph 3 of the Affidavit.

The Respondent initially filed Counter Affidavit against the Application. But when the Application was called on for hearing on the 24th of October, 2022, Mr. John Chigongo, the leaned counsel, for the Respondent withdrew the counter affidavit so as to enable the Applicant to exercise his right of appeal. Hence the Respondent was no longer contesting the Application.

That being the case, the Court finds no reason for withholding the leave to the Applicant to appeal to the Court of appeal of the United Republic of Tanzania as he so intends on the alleged points of law.

Thus, the Application is hereby granted accordingly save that, the parties shall bear their own costs.




GEORGE M. MASAJU

JUDGE

3/11/2022