

**THE UNITED REPUBLIC OF TANZANIA**  
**JUDICIARY**  
**IN THE HIGH COURT OF TANZANIA**  
**(DISTRICT REGISTRY OF MTWARA)**  
**AT MTWARA**  
**PC. CIVIL APPEAL NO. 11 OF 2021**

*(Originating from District Court of Newala at Newala in Matrimonial Appeal No. 4 of 2021)*

**FAKIHI SAIDI MNINDEKA..... APPELLANT**

**VERSUS**

**MAIMUNA MFAUME KAHAMBA..... RESPONDENT**


*Date of last order: 11/03/2021*

*Date of Ruling: 18/03/2021*

**RULING**

**MURUKE, J.**

Appellant filed present appeal on 30<sup>th</sup> June, 2021. Prisila Mapinga represented appellant on 24/2/2022. She told this court that, she has not served the respondent with copy of memorandum of appeal. By consent hearing was set to be on 11/03/2022 with an order that respondent be properly served. On 11/03/2022 when appeal came for hearing, C. Blanket counsel for the appellant prayed to withdrawn herself from representing the appellant. More so, the respondent was not served with copy of memorandum of appeal as it was ordered by this court. It is a rule of practice that, where appellant file his appeal he must serve the respondent with copy of memorandum of appeal to avoid taking the respondent by surprise that there is an appeal against him. In the case



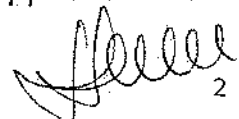
of **Gideon Wasonga & 3 others Vs. The Attorney General & 2 others, (Civil Appeal No. 37 of 2018) [2021] TZCA 3534** at Dar es salaam, in this case the appellants failed to serve the respondents with copies of notice of appeal and memorandum of appeal, court held that;

*"In this case, based on the above authorities, we think, the notice of appeal alleged to have not been served within time; and the memorandum of appeal alleged to have not been served on the respondents cannot be found at a place other than in the record of appeal which both parties have to look at. We therefore, fail to comprehend what Mr. Sinare was trying to drive home as the defect cannot be found in abstract."*

In this appeal at hand, appellant did not serve the respondent with copy of memorandum of appeal, while this court ordered the appellant to serve the respondent properly. Surprisingly, counsel for the appellant told this court that they don't know the where about of the respondent. That is not proper. It was expected in the cause of filling appeal address of the respondent for service purposes should have been reflected in the memorandum of appeal. To date respondent was not been served. For smooth administration of justice, court orders have to be respected and complied with. This court held in the case of **Alpha Risk Management Vs. Selemani Salumu Chidoli, (Labour Revision No.02 of 2021) [2021] TZHC 6749 Mtwara Registry**, that;

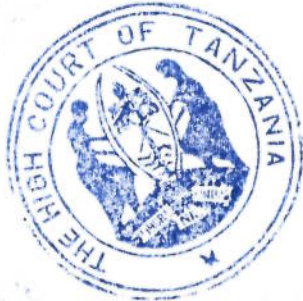
*"Noncompliance of court orders not only is a disrespect but create chaos on entire administration of justice, this cannot be left to continue. Whoever, desire this court to hear his case she/he must be ready to prosecute. Court of law will not allow sloppiness at the expense of consumers of justice."*

Failure by the appellant to serve the respondent with copy of memorandum of appeal for 9 months it is a prove that appellant is not



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serious to prosecute his case. More so, it is noncompliance of this court orders. Thus, PC. Civil Appeal No. 11 of 2021 is dismissed for want of prosecution.



  
**Z.G. Muruke**

**Judge**

**18/03/2022**

Ruling delivered in the absence of all the parties.



  
**Z.G. Muruke**

**Judge**

**18/03/2022**