

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**DAR ES SALAAM DISTRICT REGISTRY**

**AT DAR ES SALAAM**

**PC CIVIL APPEAL NO. 05 OF 2021**

*(Originating from Civil Appeal No 05 of 2020, Bagamoyo District Court)*

**ABUU RAJABU.....APPELLANT**

**VERSUS**

**STANLEY GERALD MTASIWA..... RESPONDENT**

**RULING**

**MKWIZU, J:**

The appellants' appeal originates from the District Court decision in Civil Appeal No. 05 of 2020. The memorandum of appeal was first filed at the District Court on 19/1/2020 before its transfer to this court in early 2022. The attendance of the appellant was however procured on 24/5/2022 when the appeal was ordered to be disposed of through written submissions with a clear schedule on how the same should be filed.

According to the said order, the appellant's written submissions in support of the appeal were to be filed by 9/5/2022, reply submissions by 23/5/2022, and a rejoinder by 30/5/2022, and the matter was to come for mention on 14/7/2022 presumably for fixing a judgment date. As it turned out, no written submissions were filed, and the Appellant has never since that date appeared in court to check the progress of the matter. It is a settled position of the law that failure to file written submissions as ordered is equivalent to non-appearance at a hearing date attracting a dismissal of the matter for want of prosecution. See for instance the case

of **Monica D/O Dickson v. Hussein J. (Kny Chama Cha Wafanyabiashara)**, PC Civil Appeal No. 04 of 2019. In the latter case, the court said:

*"...it is a settled principle that failure to file written submission as ordered by the court is a manifestation of failure to prosecute the case. Failure to file written submissions on the dates scheduled by the court is as good as non-appearing on the date fixed for hearing and need not be overemphasized. The applicant and his advocate failed to submit written submission on the date fixed, something which is tantamount to non-appearance on the date of hearing."*

**See also: National Insurance Corporation of (T) Ltd & Another v Shengena Ltd**, Civil Application No. 20 of 2007 at DSM (unreported),

Consequently, therefore, the appeal is dismissed for want of prosecution. Order accordingly.



**E. Y Mkwizu**  
**Judge**  
**28/2/2023**

