

**THE UNITED REPUBLIC OF TANZANIA**  
**JUDICIARY**

**IN THE HIGH COURT OF TANZANIA**  
**(DISTRICT REGISTRY OF MOROGORO)**

**AT MOROGORO**

**MISC. LAND APPLICATION NO. 50 OF 2022**

*(Application for extension of time to file revision to the Court of Appeal from judgement  
of the Resident Magistrates Court (extended jurisdiction) in Misc. Land Application No.  
418 of 2019)*

**WILLIAM MFUPA MAKOTI..... APPLICANT**

**VERSUS**

**SINGFRIDA MPWAPWA .....RESPONDENT**

**RULING**

*Final court order on: 27/6/2023*

*Ruling date on: 25/7/2023*

**NGWEMBE, J:**

This ruling is a result of preliminary objection raised by the respondent trying to challenge the main application for extension of time upon which the applicant may apply for revision to the Court of Appeal. In the course of pleadings, the respondent raised preliminary objection to the effect that this court lacks jurisdiction to entertain the application for extension of time. The gist of the objection is related to the fact that since the offending judgement was delivered by a Resident Magistrate exercising



extended jurisdiction, which powers is similar to this court, then this court lacks jurisdiction to entertain the said application. The respondent went further to underscore that the court becomes functus officio when disposes of a case.

The parties were given an opportunity to be heard on this point by way of written submissions which all complied with, without discussing on how the objection is relevant to this application. Possibly, both parties failed to procure professional lawyers.

All said, I think I need not to labour much on this point, rather I should reserve my energy for other relevant legal issues. I have no slight doubt in my mind that extension of time is within the discretionary powers of this court which is exercised judiciously. There are countless precedents to this effect which includes the cases of **Lyamuya Construction Company Ltd Vs. Board of Registered Trustees of Young Women's Christian Association of Tanzania, Civil Application No. 2 of 2010; Dar es Salaam City Council Vs. Jayantilal P. Rajani, Civil Application No. 27 of 1987; of Mumello Vs. Bank of Tanzania [2006] 1 EA 227; Tanga Cement Company Ltd Vs. Jumanne D. Massanga and Arnos A. Mwalwanda, Civil Application No. 6 of 2001.**

However, the response to the preliminary objection is simple and direct to applicable laws. Court of Appeal Rules 10 read together with 45A, provide clearly that this court has jurisdiction. To emphasize on this position, Rule 10 of the Court of Appeal Rules, is quoted hereunder: -

*"In terms of the provisions of section 11 (1) of the Appellate Jurisdiction Act, this court and the High Court have concurrent*



*jurisdiction to grant extension of time to give notice of appeal. However, under rule 45A, the application for extension of time shall in the first instance be made to the High Court"*

It is well known, time immemorial that, this Court and the Court of Appeal have concurrent jurisdiction in respect to application for extension of time to issue notice of appeal, or leave to appeal or certificate on point of law. Therefore, according to the above cited rules, obvious this court can never be functus officio.

Notably, if the law is as clear as brightest day light, obvious this objection was misplaced and lacks merits, hence dismissed forthwith.

**Order accordingly.**



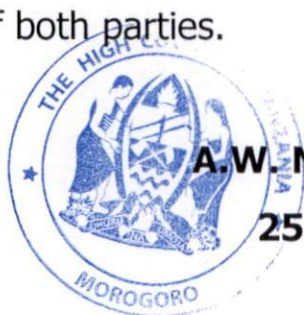
A handwritten signature in blue ink, appearing to be "P.J. Ngwembe".

**P.J. NGWEMBE**

**JUDGE**

**25/7/2023**

**Court:** This ruling is delivered in chambers this 25<sup>th</sup> day of July, 2023 in the presence of both parties.

A handwritten signature in blue ink, appearing to be "A.W. Mmbando".

**A.W. Mmbando, DR**

**25/07/2023**