

**IN THE HIGH COURT OF TANZANIA  
(LAND DIVISION)  
AT MWANZA**

**MISC. LAND APPEAL NO. 129 OF 2010**

*(Arising from Appeal No. 140/2008 District Land and Housing Tribunal for Geita at  
Geita and Originating from Igalula Ward Tribunal)*

**DIONIS K. KACHWELE.....APPELLANT**

**VERSUS**

**RUKIA ZUBERI.....RESPONDENT**

**RULING**

**B.R. MUTUNGI, J.**

As the matter was about to commence with a Preliminary Objection having been raised by Mr. Mutalemwa acting for the Respondent on the grounds that;

- 1) The decision of the District Land and Housing Tribunal of Geita dated 17/3/2009 and delivered on 18/3/2009 is non-appellate in law
- 2) Alternatively, the instant Appeal is hopelessly out of time,

the Appellant's counsel proceeded to concede to the alternative ground of the objection. He admitted that indeed the appeal is out of time but as the same was filed by the Appellant (a lay man) the court should only proceed to strike out the appeal, so that they are able to file an application for leave to file out of time. He availed the court with Court of Appeal authorities.

In response Mr. Mutalewa counsel for the Respondent strongly opposed this preposition on the ground that the law of limitation is very clear, once a matter is time barred is to be dismissed and this is what should happen to the appeal at hand.

In considering the issue at hand, I have invoked the law of limitation Act, Cap 89 RE: 2002 specifically Section 3 of same act, which is in black and white that a proceeding which is instituted after a prescribed period has **to be dismissed**. In my settled opinion this is the law.

As I am satisfied and supported by the two sides that the appeal at hand is time barred it cannot be open to me to

strike out this appeal but to straight away dismiss it with costs of which I hereby do.

**ORDER**

Appeal is dismissed as being time-barred with costs.

B.R. MUTUNGI

**JUDGE**

**26/6/2013**

Read this day of 26/6/2013 in presence of Mr. Kabonde for Appellant and Mr. Mutalemwa for Respondent.

B.R. MUTUNGI

**JUDGE**

**26/6/2013**