

IN THE HIGH COURT OF TANZANIA
AT DAR ES SALAAM
MISCELLANEOUS CIVIL CAUSE NO.110 OF 2001
HAWA OMARI APPLICANT
VERSUS
HAMZA KATEMBO RESPONDENT

R U L I N G

KIMARO, J.

In this application for leave to appeal to the court of appeal, the issue is whether there is a point of law involved worthy taking to the Court of Appeal.

This court quashed proceedings which were filed in the trial court on the ground that Hamza Katembo who filed them had no ~~locus standi~~ because he was only a beneficiary to the estate of the deceased. This court also observed that the suit was time barred.

Hamza Katembo was suing for a pieces of land and a house allegedly belonging to his father. The father died in 1975. By then he was a minor. The suit was filed last year.

The trial court dismissed the objection but on revision my Sister Judge Bubeshi held that the objection ought to have been upheld. Having considered the question whether the said Hamza Katembo had the capacity to sue, my Sister Judge had a negative answer. She said Hamza Katembo was only a beneficiary. If he wanted to sue he had to obtain letters of administration.

Regarding the suit it self, my Sister Judge said it was time barred. Mr Jundu, the learned advocate appearing for the applicant was aggrieved and he wants to go to the court of appeal. He is also complaining that he was denied the right to be heard because Mr Luguwa, the learned Advocate appearing for the other party did not serve him with his written submissions. Cousequently no reply was filed by Mr Jundu but the court proceeded to a ruling on the absence of submissions from Mr Jundu.

In this application, the advocate were directed to file written submissions. As I am writing this ruling, it is only Mr Jundu who has complied with the order. Mr Luguwa has not done so.

Having gone through the proceedings which were filed in the trial court and the ruling which was delivered by my sister Judge, I do not see any point of law to be taken before the Court of Appeal for its consideration. The application is dismissed with costs.



N.P. KIMARO

JUDGE

6/09/2002

12/09/2002

Coram: N.P.KIMARO,J.

Absent For the Applicant

Mr. Luguwa - For the Respondent

CC: Stephen

Ct: Ruling delivered today

Order The application is dismissed with costs.

N.P.KIMARO

JUDGE

12/09/2002