

IN THE HIGH COURT OF TANZANIA

AT DODOMA

CIVIL REVISION NO 7 OF 2014

*(From the Decision of the District Court of Dodoma at Dodoma in Civil case No.
12 of 2012)*

MARO MACHAGE MARO.....APPLICANT

VERSUS

1. AUGUSTINO KATI KIRO.....1ST RESPONDENT

2. KONDOA AUCTION MART AND COURT BROKERS2ND RESPONDENT

RULING

07/12/2016 & 14/12/2016

A. MOHAMED, J.

This ruling is in respect of an application for three different prayers under the provisions of section 14 (1) of the Law of Limitation Act, RE 2002; sections 79(1) (b) & (c), and 95 of the Civil Procedure Code [Cap 33 RE 2002] and sections 43 (2) and 44 (a) & (b) of the Magistrates Courts Act [Cap 11 RE 2002] to be read together with any enabling provision of the law. The prayers are;

1. This court extends time within which the applicant can apply for revision against the Dodoma District Court's order refusing to

admit an application to set aside its dismissal order of the application being out of time.

2. That this court revises, determines and declares the refusal by the District Court to admit the applicant's application for setting aside the dismissal order is improper and prejudicial.
3. That this court intervenes and directs the District Court to admit the applicant's application and order another magistrate to determine the applicant's application for extension of time and further order the dismissal order in Civil Case No. 12 of 2012 to be set aside.

On 29/8/2016, the parties agreed to dispose of the application by way of written submissions.

In support of his application, the applicant submitted at length on the grounds and reasons for this court to grant his prayers which I need not reproduce as I find them redundant as will be explained in the course of this ruling.

In resisting the application, the 1st respondent raised a number of objections which in essence assailed the applicant's cited enabling provisions in his chamber summons.

He pointed out that the applicant wrongly cited the “**Law of Limitation Act, RE. 2002**” by failing to cite the chapter number of the

said statute. As such, he argued this wrong citation cannot move this court to grant the prayers. I entirely agreed with this argument as section 20 (1) (c) of the Interpretation of Laws Act [Cap 1 RE. 2002] provides that;

"Where a written law is referred to, it shall be sufficient for all purposes to refer to that written law by –

(a) n/a

(b) n/a

(c) in the case of an Act, the chapter number given to the Act in any revised edition of the laws"

It is trite that improper citation of the law cannot move a court to consider a matter before it as it is the proper citation of the statute, section/subsection which confers it with the necessary jurisdiction or power to hear it.

The rest of the provisions cited by the applicant are inapplicable in the instant application as they are contingent upon this application for extension of time being granted. They can thereafter be cited in another application for revision.

After the foregoing, I strike out the application with costs.

Order accordingly.



A. MOHAMED

JUDGE

14/12/2016

The right of appeal explained



A. MOHAMED

JUDGE.

14/12/2016