

IN THE HIGH COURT OF TANZANIA  
AT DAR ES SALAAM

MISC. CIVIL CAUSE NO. 41 OF 1999

AUGUSTIN LYATONCA MREMA ..... APPLICANT

VERSUS

THE HON. ATTORNEY GENERAL ..... RESPONDENT

R U L I N G

Manento, J

The applicant had filed an application before this Court for leave to apply for the prerogative orders of *cetiorari* and *mandamus*. The application was heard and dismissed on 13th July, 1999. The applicant through his learned counsel, Mr. Nyange was dissatisfied by the ruling. He filed a chamber application under the provisions of Section 5 (1) (c) of the Appellate Jurisdiction Act, 1979 for grant to the applicant leave to appeal to the Court of Appeal. This chamber application is supported by an affidavit deposed by Mr. Nyange, learned counsel for the applicant. The Attorney General filed a counter affidavit and the learned Counsels were, by their consent, ordered to file written submissions in support of the application. The learned counsel for the applicant was ordered to file the written submissions on or before 9/6/2000, the Attorney General to file his submissions on or before 20/6/2000 and rejoinder if any to be filed on or before 30/6/2000. The ruling was ordered to be on notice to the parties. Until today, neither the applicant nor the respondents filed any written submissions. I have decided to write the ruling basing on the affidavit and counter affidavits only. It be noted that on the day for the order for written submission was made, Mr. Nyange's brief was held by one Ringia, learned counsel while the respondent was represented by Ngwembe, learned State attorney.

By reading the affidavit of Mr. Nyange, learned counsel for the applicant, I don't see any legal point raised to be determined by the Court of Appeal. During the hearing of the application which was

dismissed, the learned state attorney had raised a preliminary objection in that the applicants was to appeal to the Court of Appeal on decisions made by this Court (Msumi J.K) and not to apply for judicial review. That judicial review should be the last alternative in the event there are no avenues open to the applicant. He was therefore to pursue his legal rights if any by way of appeal.

In the absence of any submissions in support of the affidavit, perhaps explaining further if there are any reasons perhaps not properly covered in the affidavit, I am obliged to agree with the learned state attorney in his counter affidavit that there are no legal points raised which need be determined by the Court of Appeal. The application for the grant of leave to appeal to the Court of Appeal is therefore dismissed for lack of units at all.

A. R. Manento

JUDGE

8/12/2000

8/12/2000

Coram: -- Manento J.  
 Shayo/Nyange for the Applicant  
 Abmit -- for the Respondent  
 -- Manumbu Mrs.

Order: The ruling is read in court in the absence of resp. with notice.

A. R. Manengo

JUDGE

8/12/2000.