

IN THE HIGH COURT OF TANZANIA
AT DAR ES SALAAM

MISC. CIV. CASE No.57 OF 2003
TANZANIA, ZAMBIA RAILWAYS CORP. - APPLICANT

VERSUS
RAPHAEL CHANDE & OTHERS - RESPONDENT

R U L I N G

MASSATI, J.

The Applicant, Tanzania Zambia Railway Authority was successfully sued by the Respondents in Employment Cause No.1 of 1999 in the District Court of Temeke. Judgment of the District Court was delivered on 7/2/2000. An attempt to appeal against that judgment was dismissed by Kaganda PRM (Ext jurisdiction) on 22/9/2000 Aggrieved, the Applicant filed a notice of appeal to the Court of Appeal and an application for extension of time within which to file an application for leave to appeal. The application was dismissed by Ihema J. on 22/5/2002. The notice of appeal was struck out by Iubuva, J.A. on 3/3/2003. The Applicant has again come before this Court to apply for revision and for extension of time within which to file the same. The Applicant is represented by Mrs. Kato, learned counsel while the Respondents are represented by Mr. Bashaka, learned counsel.

Mr. Bashaka has raised two preliminary objections against the application. First the matters sought to be revised are resjudicata. Secondly the application is time barred.

In the application Mrs Kato seeks the power of this court to revise

"the proceedings and quash the decree and order of execution"

This application was argued orally by the parties on 23/7/2003.

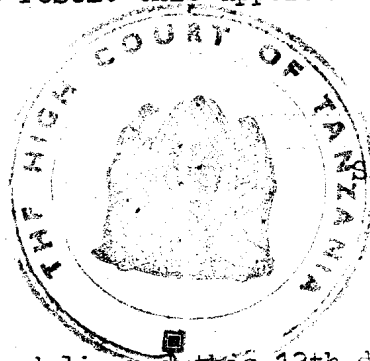
Mrs Kato urged me to allow the application on the ground that a correct amount may be known otherwise the Applicant opposes the decretal sum. On the question of time Mrs Kato submitted she was late because his client was making attempts to settle the decretal sum out of court in vain. Mr. Bashaka submitted that the application was devoid of merit, and this is demonstrated by the fact

that all attempts to appeal against the decree had failed. He submitted further that the Applicant was now using the revisional proceedings as an alternative to the appeal.

With the greatest respect, I think I am at one with Mr. Bashaka. The memorandum of appeal filed by the Applicant on 12th May 2000, seeks to challenge "the decree and judgment" of the District Court. This is the one which Kaganda PRM (extended jurisdiction) dismissed with costs. Yet, the applicant is asking me to "revise" the District Court proceedings "and decree". To do so, would be tantamount to revising the decision of Kaganda (PRM) (extended jurisdiction). I don't have such powers as the matters are now resjudicata.

Having so found, I find any discussion as to the merits of the application of extension of time merely academic, so I will not go into it.

In the result this application is dismissed with costs.



A. Massati
JUDGE

R

Ruling delivered this 12th day of August 2003 in the presence of Mr. Daffa for Mrs Kato and Daffa for Mr. Bashaka and the parties.

S.A. Massati
JUDGE
12/8/2002