

IN THE COURT OF APPEAL OF TANZANIA
AT DAR ES SALAAM

CIVIL APPLICATION NO. 509/01 OF 2018

CHIKU HARID CHIONDA APPLICANT

VERSUS

GETRUDE NGUGE MTINGA as Administratrix of
The late YOHANE CLAUDE DUGU RESPONDENT

**(Application for Extension of Time for filing an Application for Revision of the
decision of the High Court of Tanzania, at Dar es Salaam)**

(Muruke, J.)

dated the 17th day of November, 2017

in

PC Civil Appeal No. 84 of 2016

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RULING

22nd July & 5th September, 2019

KOROSSO, J.A.:

Before me is an application for extension of time within which to file an application for revision of the Judgment of the High Court of Tanzania Dar es Salaam mentioned above in PC Civil Appeal No. 84 of 2016. The application is made by way of notice of motion supported by an affidavit deponed by Chiku Harid Chiondo the applicant, pursuant to Rule 10 and 48(1) of the Tanzania Court of Appeal Rules 2009 as amended by GN No. 362 of 2017 (the Rules). The respondent duly filed the Affidavit in Reply

sworn by Getrude Nguge Mtinga. Neither of the parties filed written submissions.

Before proceeding any further I find it pertinent at this interval to spell out albeit briefly the background to this application. The respondent was on the 18th of February 2015 appointed the administratrix of the estate of Yohane Claudio Dugu who died interstate on 14th November 2014. The applicant came forward seeking to be included as one of the beneficiary of the estate of the deceased claiming to be a wife of the deceased. At the Primary Court, Morogoro Urban, in Probate Cause No. 22 of 2015, the applicant was disqualified from being amongst the beneficiaries, the court refusing to recognize her as a legal wife of the deceased.

Being aggrieved by the said decision, the applicant appealed to the District Court of Morogoro in Civil Appeal No. 31 of 2016 where the court set aside the decision of the primary court stating that the applicant was a wife of the deceased and thus one of the heirs of the deceased properties. The respondent was dissatisfied with the decision of the District Court and appealed to the High Court. The High Court dismissed the appeal, subscribing to the findings of the 1st appellate court and ordered that the applicant be given share of the properties of the deceased from 2006 to

2014 acquired during the period the applicant cohabited with the deceased.

On the day the application came for hearing, the applicant was unrepresented and thus fending for herself while on the part of the respondent she was represented by Mr. Melkior Sanga, Learned Advocate. The applicant did not have much to submit and prayed that the contents of the notice of motion and the supporting affidavit be considered in determination of the application.

From the contents of the affidavit supporting the notice of motion, on the issue of delay to file the application for revision on time, the applicant avers that this was caused by delay to be supplied with copies of proceedings despite having requested for the same within time. Part II paragraph 2 of the affidavit supporting the notice of motion, the applicant avers there being illegality occasioned by the High Court judge on the face of the record. The counsel for applicant also submitting this is because the High Court Judge entertained extraneous matters which were not before her and gave an order of distribution of properties based on the law of marriage upon dissolution of subsisting marriage and sidelined the law governing inheritance. Thus contending that the application for revision is