



LINUS SWAI v. MSIMU KOMBO MEELA
IN THE COURT OF APPEAL OF TANZANIA
AT DAR-ES-SALAAM

CIVIL APPLICATION NO. 219/01 OF 2022

(Mwambegele. J.A. Maige. J.A. and Mdemu. J.A.)

(Application for revision from the order of the High Court of Tanzania, at Dar Es Salaam, Kakolaki, J, dated 27th day of October 2021 in Civil Case No. 175 of 2017)

Civil Practice and Procedure – Revision – interlocutory orders - Whether the adjournment order is an interlocutory order.

The applicant applied for revision against an adjournment order made by the High Court. The adjournment order was issued due to the absence of the applicant and his advocate during the continuation of the trial. The order required the defendant, Respondent, to pay costs for the adjournment, including costs to the plaintiff and the court.

The applicant sought revision of this order under section 4(3) of the Appellate Jurisdiction Act, Cap. 141 R.E, 2019 (the AJA), and rule 65 of the Tanzania Court of Appeal Rules, 2009 (the Rules). The respondent raised a preliminary objection, arguing that the order was interlocutory and therefore not subject to revision under section 5(2)(d) of the AJA, which prohibits revision of orders that do not finally determine the matter.

Held:

- (i) The adjournment order of the trial Judge is interlocutory and, as such, is barred by section 5 (2) (d) of the AJA to be a subject for revision.

Application is Struck Out.

Statutory provisions referred to:



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- (i) ~~The Court of Appeal Rules, 2009 under Rule 65.~~
- (ii) Appellate Jurisdiction Act, Cap 141 R.E. 2019, under section 5(2)d and 4(3).

Case referred

- (iii) Total Tanzania Limited v. Mexon Sanga, Civil Application No. 488/16 of 2019 (unreported)
- (iv) Vodacom Tanzania Limited Company v. Planetel Communications Limited, Civil Appeal No. 43 of 2018 (unreported)
- (v) Augustino Masonda v. Widmel Mushi [2020] TLR 114.