



**EPHRAEM CHRISTOPHER MANASE MREMA v. HOMANGE KASTORY  
KUNZUGALA**

COURT OF APPEAL OF TANZANIA

AT MBEYA

(NDIKA, RUMANYIKA, and MURUKE, JJ. A)

CIVIL APPLICATION NO. 999/06 OF 2023

(Application for revision from the Ruling and Order of the High Court of Tanzania at Mbeya, Ngunyale, J. dated the 5th day of June, 2023 in Civil Case No, 13 of 2016.)

*Civil Practice and Procedure – Applicability of Certificate of Delay in Application for Revision – Whether a certificate of delay issued under rule 90(1) of the Court of Appeal Rules can be used to exclude time in a revision application made under rule 65(4).*

*Civil Practice and Procedure –Overriding objective principle- Whether the overriding objective principle under sections 3A & 3B of the Appellate Jurisdiction Act can be invoked to override mandatory procedural rules.*

The applicant sought revision of a High Court decision under section 4(3) of the Appellate Jurisdiction Act and rule 65 of the Tanzania Court of Appeal Rules, 2009. The respondent challenged the application on the ground that it was time-barred, as it was filed 168 days after the High Court's decision, exceeding the 60-day limitation under rule 65(4) of the Rules. However, the applicant argued that he had applied for a copy of the proceedings on 14th June 2023 and received the documents on 25th September 2023. The Deputy Registrar issued a certificate of delay, excluding 104 days, which, when considered, placed the filing within the required period.



Both parties argued that a certificate of delay issued under rule 90 of the Court of Appeal Rules, 2019 (which applies to appeals) could be used to exclude time for revision applications under rule 65(4).. The applicant's counsel also requested the court to invoke the **overriding objective principle** to allow the matter to proceed in the interest of justice.

**Held:**

- (i) The certificate of delay issued under rule 90(1) of the Court of Appeal Rules was invalid for a revision application. It applies only to appeals.
- (ii) Overriding objective principle under sections 3A and 3B of the Appellate Jurisdiction Act is for the promotion of justice it can therefore not be used to bypass mandatory procedural rules.

The application is struck out.

**Statutory provisions referred to:**

- (i) Section 4 (3) of the Appellate Jurisdiction Act, Cap. 141 RE 2019
- (ii) Rule 65 (1), (2), (3) and (4) of the Court of Appeal Rules, 2009 as Amended

**Case referred**

N/A

Mr. Ephraem Christopher Manase Mrema, the Applicant Represented himself.

Mr. Ndurumah Keya Majembe and Mr. John Ray Gamaya, for the Respondent.