

TANZANIA / JUDGMENT

20110930 TZCA Arusha1

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TZCADECIDED
30 September 2011

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1 IN THE COURT OF APPEAL OF TANZANIA J AT ARUSHA CRIMINAL APPLICATION NO. 3 OF 2010 ALLY MKOMBOZI APPLICANT VERSUS THE REPUBLIC RESPONDENT (Application for extension of time to file review from decision of the Court of Appeal of-Tanzania at Arusha) (Kaii, J.A, Kileo,JA, And Kimaro, JA,) Dated 23 rd,24th day of April, 2004 in Criminal Appeal No.7 of 2007 I RULING 27 th & 30th September, 2011 NSEKELA, J.A.: Before this Court in Criminal Application No. 4 of 2008, Ally Mkombozi v The Director of Public Prosecutions (unreported) a single Justice of this Court (Mandia,J.A) struck out an application for extension of time to file an application for Revision. The powers of a single Justice to do so are contained in Article 123 of the Constitution of the United Republic of Tanzania. The applicant, Ally Mkombozi, .. was dissatisfied with this decision and filed a Notice of Motion under Rule 48 of the Court of Appeal Rules, 2009 (Court Rules). In his supporting affidavit, 2 the applicant attempted to explain the course of his delay to make the application. On her part, Ms. Javelin Rugaihuruza opposed the application, basically on the ground that in terms of Rule 62(1) of the Court Rules, a single justice of this court had no jurisdiction to entertain this application I am in respectful agreement with the learned State Attorney. Criminal Application No. 4 of 2004 was heard and determined by a single Justice of this court presumably under Rule 60(1) of the Court Rules. Since the applicant was dissatisfied with the decision of Mandia, J.A., his remedy was to invoke Rule 62(1)(a) of the Court Rules. The application is to be heard by the Full Court. This is also self-evident under Article 123 of the Constitution of the United Republic of Tanzania. 3 In the result, the application before me is incompetent. The Full Court has the jurisdiction to entertain it and not a single Justice of this Court. It is accordingly ordered. DATED at ARUSHA this 28 th day of September, 2011. H.R. Nsekela JUSTICE OF APPEAL I certify that this is a true copy of the original. ~ ¼~»:-:- ,. 4 ~==-----
_) ~ E.Y. MKWIZU DEPUTY REGISTRAR COURT OF APPEAL

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