

TANZANIA / JUDGMENT

## 20130319 TZCA Mwanza

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TZCADECIDED  
19 March 2013

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; ' ·, IN THE COURT OF APPEAL OF TANZANIA ATMWANZA (CORAM: MBAROUK, J.A., BWANA, J.A., And MUSSA, J.A.) CIVIL APPEAL NO. 57 OF 2012 ALLI CHAMANI  
..... APPELLANT VERSUS

1. KARAGWE DISTRICT COUNCIL }
2. COLUMBUS PAUL - .....RESPONDENTS (Appeal from the decision of the High Court of Tanzania at Bukoba) (Mjemmas, J.) dated the 11th day of May, 2011 in Miscellaneous Civil Application No. 21 of 2009 ORDER OF THE COURT MUSSA, J.A.: When the matter came for hearing today, the appellant, appeared in person. The second respondent had the services of Mr. Aaron Kabunga who was also holding brief for Mr. Aloyce Mbonito, learned senior state attorney for the first respondent. Upon the court raising the issue of the competency of the appeal, the appellant conceded before us that, indeed, the appeal was incompetent for not being accompanied by a drawn order and for lack of a certificate from the District Registrar with respect to exclusion of time required for the preparation of the record. To this application Mr. Kabunga had no objection except that he prayed for costs, a matter which he left for the discretion of the Court. For our part we are satisfied that the appeal is incompetent for lack of a drawn order as required by Rule 96(1) (h). Likewise, the appellant has not shown entitlement to rely on the provisions of Rule 90(1) much as there is no certificate of delay from the District Registrar. On the premises, the appeal is struck out for incompetence but given the circumstances of the matter; we give no order for costs. DATED at MWANZA this 19th day of March, 2013. S. J. MBAROUK JUSTICE OF APPEAL S. J. BWANA JUSTICE OF APPEAL K. M. MUSSA JUSTICE OF APPEAL I certify that this is a true copy of the original. --- 1 ~ - - P. W. BAMPIKYA \t i SENIOR DEPUTY REGISTRAR \\W.. t<,>,. COURT OF APPEAL •~, ( ~"-!':!, \_ \_\_,.... 7'./', ,",~"- ..I: ,,,,,,,;'" . ,~,~.;;-~--\_-;,,,;,,,;~ 2

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**CASE PAGE**              <https://chat.esheria.ai/case-law/tanzania/alli-chamani-v-karagwe-district-council-appealcompetency-tzca-2013>

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