

TANZANIA / JUDGMENT

revocatus namil versus thomas ndomale 2024 tzhc 597 9 february 2024

COURT
TZHCDECIDED
9 February 2024

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA SUB REGISTRY OF SHINYANGA AT SHINYANGA MISC. LAND APPLICATION NO. 22 OF 2023. (Arising from the decision of the High Court of Tanzania at Shinyanga Sub Registry in Miscellaneous Land Appeal No.5 of 2020) REVOCATUS NAMIL APPLICANT VERSUS THOMAS NDOMALE RESPONDENT COURT ORDER 6th& 9th February, 2024. MASSAM, J.: In this application, the appellant herein above lodged an application seeking for extension of time to file leave to appeal to the Court of appeal under the provision of Section 11(1) of the Appellate Jurisdiction Act (Cap 141 R:E 2019). This court after been aware of the recent changes of law brought by Section 10 Of the legal sector laws (Miscellaneous Amendments) Act No 11 of 2023, is invited the parties to address on that issue if the application before this court was proper or not. Application on his submission submitted that he don't see any reason to proceed with his application as leave no more a requirement of the law, so he pray the same to be struck out. Respondent conceded Page 1 of 3 what the applicant submitted that there is no need of this application to be in court anymore as the same as overtaken by the event. This court after heard both parties it finds out that there is no doubt that there was the recent changes of some laws which included the Appellate Jurisdiction Act. As regards, the effect of the changes brought by section 10 of the Legal Sector Laws (Miscellaneous Amendments) Act No. 11 of 2023 have extracted the requirement for leave needless hence such an application for leave being defeated by the changes ought to be struck out. The provision under Section 10 of the Act, provides inter alia that, The principal Act is amended in Section 5

- (a) By deleting subsection (1) and substituting for it the following; "(1) In civil proceedings, except where any other written law provides otherwise, an appeal shall lie to the Court of Appeal against every order or decree, including an ex- parte or-preliminary decree made by the High Court, in the exercise of its original, appellate or revisional jurisdiction" Page 2 of 3 From the above annotations this court finds out that, the changes have done away with any application for extension of time to file leave to appeal to the Court of Appeal against the decision emanated from The High Court because the requirement to obtain leave has ceased to be mandatory before one can appeal to the Court of Appeal successfully from the 1st day of December, 2023 when the said Act come into operation. Therefore, since the current application is for extension of time to apply for leave to appeal to the Court of Appeal to

challenge the decision of the High Court, and the same has been affected with the above changes, the consequences therefore is to strike out this application as I hereby do as the same as overtake by the event. In regard to the nature of the case, no order for the costs as the changes was caused by the operation of the law. It is so ordered. February 2024 R.B. Massam JUDGE 9/02/2024 Page 3 of 3

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