

IN THE COURT OF APPEAL OF TANZANIA  
AT ARUSHA

(CORAM: MUNUO, J.A., KILEO, J.A. And MANDIA, J.A.)

CIVIL APPEAL NO. 78 OF 2010

JOSHUA LAZARO.. ..... APPELLANT

VERSUS

TRUSTEES OF TANZANIA NATIONAL PARK

t/a TANZANIA NATIONAL PARKS..... RESPONDENT

(Appeal from the Judgment of the High Court  
of Tanzania at Arusha)

(Mmilla, J.)

dated the 19<sup>th</sup> day of March, 2010

in

Civil Appeal No. 3 of 2009

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RULING OF THE COURT

01<sup>st</sup> & 2<sup>nd</sup> March 2012

MANDIA, J.A.:

The appellant filed an appeal in this Court against the decision of the High Court of Tanzania at Arusha in **Civil Appeal No. 3 of 2003**. The appeal in the High Court was against the decision of the District Court of Arusha at Arusha in **Employment Cause No. 1 of 2005**. The appellant is self-represented, and the respondent is represented by Mr. Ezra Mwaluko, learned advocate.

The respondent filed a notice of preliminary objection under Rule 107 (1) of the Court of Appeal Rules, 2009. There are two points of objection, namely, failure to seek and obtain leave to appeal, and failure by the appellant to serve the respondent with a copy of the Notice of Appeal.

It was undisputed that this was a third appeal for which leave to appeal was mandatory under Section 5(1) (c) of the Appellate Jurisdiction Act, Chapter 141 R.E.2002 of the laws. The appellant conceded in court that he did not seek leave as he was a layman and nobody told him anything about leave. Mr. Ezra Mwaluko, learned advocate, drew our attention to authorities which laid down the law that an appeal from the High Court exercising appellate jurisdiction requires leave to appeal otherwise the appeal becomes incompetent.

These are:

- (1) **Mechanical Installation and Engineering Co. Ltd versus Abubakar Ndeza Maporo (1987) TLR 44.**
- (2) **Enock M. Chacha versus Manager, NBC Tarime (1995) TLR 270.**

(3) **Linus F. Shao versus The National Bank of  
Commerce Civil Appeal No. 36 of 2000**, (C.A.T. Mwanza  
Registry, unreported)

We therefore find the appeal before us incompetent. We therefore do not need to go into the second ground relating to service, as the first ground of objection is enough to dispose of the matter. We therefore uphold the preliminary objection. The application before us is clearly incompetent and we strike it out with costs.

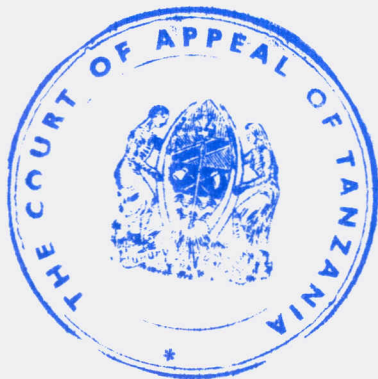
DATED at ARUSHA this 1<sup>st</sup> day of March, 2012.

E. N. MUNUO  
**JUSTICE OF APPEAL**

E. A. KILEO  
**JUSTICE OF APPEAL**

W. S. MANDIA  
**JUSTICE OF APPEAL**

I certify that this is a true copy of the original.



  
E. Y. MKWIZU  
**DEPUTY REGISTRAR**  
**COURT OF APPEAL**