

IN THE HIGH COURT OF TANZANIA

AT DODOMA

**MISC. CIVIL APPLICATION NO. 68 DOF 2003
(PC CIVIL APPEAL NO. 67 OF 2003 – SINGIDA
DISTRICT COURT CIVIL APPEAL NO. 84 OF
2000 – ORIGINAL CIVIL CASE NO. 5 OF 1999
OF UTEMINI PRIMARY COURT)**

1. ANDREA MUGHANGA

2. ERASTO MJUNGU

} **.....APPLICANTS**

versus

JUMA DAUDI RESPONDENT

09.06.2006 & 27.06.2006

RULING

MASANCHE, J.

This is an application for setting aside a dismissal order made by this Court (Kaji J,) as he

then was) on 29.09.2003. Our brother, Kaji, J, dismissed the appeal for want of prosecution.

The applicants **Andrea Mughanga** and **Erasto Mjungu** had sought to appeal to this court against court judgment of the District Court of Singida, delivered on 07.06.2001. Kaji J, had given them time to send before him written submissions by 19.09.2003. They did not.

Mr. Nyabiri, learned advocate for the respondent, raised a preliminary point, before we got into business. He said, after all, Mr. Njulumu, learned advocate who had brought the application to set aside the dismissal order, had brought an application which was out of time. I asked Mr. Njulumu, when, actually, he got the copy of the dismissal order by Kaji J. Mr. Njulumu fumbled over his papers and said he could not see it, blaming the situation on the rain – saying the file had gone with rain.

I see this application for setting aside the order of dismissal given on 29.09.2003 as being fanciful.

No date has been given to me, to enable me get the truth. He, who is hiding, knows the truth about it. I repeat, the whole application is fanciful. It is struck out with costs.




J.E.C. MASANCHE
JUDGE

DODOMA

27th June, 2006

Mr. Njulumi (Advocate) for applicants – Present.
Respondent – Absent.