

H/c Iriya

IN THE HIGH COURT OF TANZANIA

AT SONGEA

(PC) CIVIL MATTRIMONIAL APPEAL NO. 2 OF 2008

SONGEA DISTRICT COURT CIVIL CASE NO. 4 OF 2008

ORIGINAL SONGEA URBAN PRIMARY COURT CIVIL CASE NO. 25 OF 2007

ALLY BARNABAS HAKIMU..... APPELLANT

VERSUS:

VUMILIA SAIMON MZENA RESPONDENT

4/11/2008 HEARING CONCLUDED

17/3/2009 RULING DELIVERED

RULING:

UZIA, J.

This is a second appeal by Ally Barnabas Hakim, who was dissatisfied with the decision of the District Court which dismissed the appeal against the decision of Songea Urban Primary Court. Before the appeal was heard, Mr. Mbogoro, learned Counsel for the respondent one Vumilia Saimon Mzena, filed Notice of Preliminary objection that the appeal was time barred and hence should be struck out with costs. The appellant did not respond to the Preliminary objection though was aware of it right from the beginning. In his written submissions on the preliminary objection, Mr. Mbogoro argued that the appeal was time barred because the appellant was supplied the copy of judgment on 29/2/2008 but filed the appeal on 14/4/2008, 29 days after obtaining the necessary copies of judgment.

Going by the trial court record there is no doubt what has been submitted by Mr. Mbogoro was right and the dates are clearly shown in the record. That the appellant received the judgment on 29th /2/2009 and filed the appeal 14th /4/2008. according to section 25(1) (a)(b) of the Magistrates Courts Act, 1984 the appellate was supposed to file within 30 days. For the stated reason, I sustain the preliminary objection and struck out the appeal with costs.



L.M.K UZIA

JUDGE

17/3/2009

LMKU/PJL.