made perfectly clear, I think that this Court can halt the bulldozer of the State before it squashes the right of an individual, company or society.

The preliminary point fails.

MOSES J MWAKIBETE v. THE EDITOR – UHURU, SHIRIKA LA MAGAZETI YA CHAMA AND NATIONAL PRINTING CO LTD

COURT OF APPEAL OF TANZANIA

(Omar, Mnzavas and Mfalila, JJA)

AR CIVIL APPLICATION FOR REVISION NO 8 OF 1994

March 22, 1995 – Arusha

(From the Ruling and Order of the High Court of Tanzania at Arusha, Mkude, J)

Court of Appeal – Jurisdiction – Revisional powers of the Court of Appeal – Whether revisional powers may be invoked as an alternative to the appellate jurisdiction of the Court – Section 2(3) of the Appellate Jurisdiction Act 1979.

The applicant sought to move the Court of Appeal to revise a Ruling of the High Court. The applicant could appeal against that ruling with the leave of the court. But he chose to apply for Revision instead because he feared that processing and finalising the appeal would take a long time.

Held:

(I) The revisional powers conferred by s 2(3) of the Appellate Jurisdiction Act 1979 are not meant to be used as an alternative to the appellate jurisdiction of the Court of Appeal; accordingly, unless acting on its own motion, the Court of Appeal cannot be moved to use its revisional powers under s 2(3) of the Act in cases where the applicant has the right of appeal with or without leave and has not exercised that right;

(ii) The Court of Appeal can be moved to use its revisional jurisdiction

under s 2(3) of the Appellate Jurisdiction Act 1979 only where there is no right of appeal, or where the right of appeal is there but has been blocked by judicial process, and lastly, where the right of appeal existed but was not taken, good and sufficient reasons are given for not having lodged an appeal;

(iii) The applicant in this case had a right to appeal and has not given any good and sufficient reasons why he did not appeal; therefore he cannot move the Court of Appeal to exercise its revisional jurisdiction.

Application dismissed.

No case referred to.

Mahatane for the respondents.

Omar, JA delivered the following ruling of the Court:

In this Notice of Motion, the applicant seeks to move this Court to exercise its revisional jurisdiction to revise the Ruling of the High Court in Civil Case No 9 of 1993 and issue an order to the effect that in so far as the said ruling purports to stay the proceedings in relation thereto, purportedly by virtue of s 8 of the Civil Procedure Code pending the determination of Civil Case No 7 of 1993 be set aside and that in lieu thereof the trial of the case to proceed to its logical conclusion. The revisional jurisdiction of this Court is provided by the Appellate Jurisdiction (Amendment) Act 17 of 1993 s 2(2) and (3). The jurisdiction in ss (2) is exercised either in the course of hearing an appeal or incidental to an appeal. Subsection (3) enables this Court to call for and examine the record of any proceedings before the High Court for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, order or any other decision made thereon and as to the regularity of any proceedings in the High Court. The present application must fall within the provisions of ss (3).

Before proceeding to hear such an application on merits, this court must satisfy itself whether it is being properly moved to exercise its revisional jurisdiction. The revisional powers conferred by ss (3) were not meant to be used as an alternative to the appellate jurisdiction of this court. In the circumstances, this court, unless it is acting on its own motion, cannot properly be moved to use its revisional powers in ss (3) in cases where the applicant has the right of appeal with or without leave and has not exercised that option. In these circumstances, we asked the applicant whether or not the High Court Ruling he is moving this Court to revise is appealable. He

A conceded that it is appealable with leave. We agree with him. The next question then was why he did not take that course of action. The applicant replied that he decided to come to this Court by way of revisional proceedings because he feared the length of time it takes to process and finalise an appeal particularly in this case
B where the judge who is involved was not a resident judge at Arusha. Is this sufficient reason? Mr *Mahatane* for the respondents did not think so. In his view all that the applicant is trying to do is to use the revisional jurisdiction of this Court as an alternative to its appellate jurisdiction and that would be a misuse of its revisional
C jurisdiction.

In our view this Court can be moved to use its revisional jurisdiction under ss (3) only in cases where there is no right of appeal or where there is, it has been blocked by judicial process. Lastly where such right exists but was not taken, good and sufficient reasons are
D given why no appeal was lodged.

In the present case we agree with Mr *Mahatane* that the applicant has not given any good and sufficient reasons why he did not appeal. In his own words he decided to invoke the revisional jurisdiction of this Court as an alternative to the appellate jurisdiction
E because the latter takes too long to process and finalise. But the revisional jurisdiction of this Court was not meant to short circuit its appellate jurisdiction, in any case the applicant was not entitled to assume that his intended appeal would take longer than necessary and then shape his court of action on that assumption.

F For these reasons we are satisfied that the applicant has not established good and sufficient reasons for wanting to move the revisional jurisdiction of this Court. Accordingly we decline to exercise such jurisdiction and dismiss this application with costs.