THE JUDICIARY OF TANZANIA

IN THE DISTRICT COURT OF TEMEKE AT ONE STOP CENTRE

CIVIL REVISION NO. 000026166 OF 2025

LILANETH KAHWA MWAKASENDILE ..... COMPLAINANT / APPELLANT / APPLICANT / PLAINTIFF

VERSUS

MARIAM VICTOR MWAKASENDILE ..... RESPONDENT / DEFENDANT

RULING

YUNGE, SRM

The respondent initially raised four points of preliminary objection, but her counsel, Mr. Bakari Ndeke, abandoned three of them, leaving only one for determination, namely, whether this Court can entertain the present application for revision where the applicant had a statutory right of appeal against the impugned decision of the Primary Court. The counsel for the applicant, Mr. Meswin Masinga, resisted the objection.

Learned counsel for the respondent submitted that the impugned ruling was appealable under section 20(1)(a) of the Magistrates' Courts Act, Cap. 11 R.E. 2023. He argued that where an appeal is not filed within the prescribed thirty days, Rule 3 of the Civil Procedure (Appeals Originating in Primary Courts) Rules, G.N. No. 312 of 1964 provides a remedy by allowing a party to seek extension of time. Instead of pursuing that course, the applicant opted to file a revision, which, according to counsel, is not a substitute for an appeal. He

relied on **Hamoud Mohamed Sumry v Musa Shaibu Msangi & Others** [2020] TZCA 1795, **Maguno v Maguno** [2005] TZHC 8, **Tuluhosahwo Angelo v Msolapa Kwizizile** [2022] TZHC 1154 and **Eqbal Ebrahim v Yesseh K. Wahyungi** [2023] TZCA 17859.

On his part, learned counsel for the applicant submitted that the application was properly instituted under section 22(1) of the Magistrates' Courts Act because the complaint concerns the legality and propriety of the proceedings. He argued that the Primary Court, by its ruling of 12 November 2024, unlawfully revisited and overturned an earlier ruling delivered on 7 October 2022 after it had become functus officio. He therefore maintained that revision, rather than appeal, was the proper remedy.

In line of the submissions of both learned counsel, the only issue for determination is whether this revision is competent in view of the applicant's undisputed right of appeal.

There is no dispute that the impugned ruling was appealable under section 20(1)(a) of the Magistrates' Courts Act. Equally, where the prescribed period for appeal has lapsed, Rule 3 of G.N. No. 312 of 1964 empowers the appellate court to extend time upon sufficient cause being shown.

The revisional jurisdiction conferred upon this Court by section 22 of the Magistrates' Courts Act is supervisory and discretionary. It is intended to enable the Court to correct jurisdictional errors, illegalities or material irregularities in appropriate cases. However, it is equally settled that revision is not intended to replace or circumvent the statutory right of appeal. It is a remedy of last resort.

The Court of Appeal in **Hamoud Mohamed Sumry v Musa Shaibu Msangi & Others** (supra) emphasized that where a party to the proceedings seeks revision despite the availability of an appeal, special circumstances must be

shown to justify invoking revisional jurisdiction. Likewise, in **Tuluhosahwo Angelo v Msolapa Kwizizile** (supra), the High Court reiterated that revision is not an alternative to appeal. In **Maguno v Maguno** (supra), the Court held that an appealable order should ordinarily be challenged through an appeal and not by revision. The same position was reaffirmed by the Court of Appeal in **Eqbal Ebrahim v Yesseh K. Wahyungi** (supra).

The applicant argued that the Primary Court acted functus officio by revisiting an earlier ruling. While that contention may raise an arguable question of law, it does not dispense with the statutory appellate procedure. Whether the trial court exceeded its jurisdiction or committed an error of law is a matter that can properly be examined on appeal. The mere allegation of illegality cannot, without more, justify bypassing the appellate mechanism established by law.

In the present case, the applicant neither preferred an appeal nor sought extension of time to appeal. Instead, the applicant invoked the revisional jurisdiction of this Court without demonstrating any exceptional circumstances warranting departure from the ordinary appellate process.

I therefore find merit in the preliminary objection. The present application for revision is incompetent for having been instituted where an adequate statutory remedy by way of appeal was available.

Accordingly, the preliminary objection is upheld. Consequently, the application for revision is hereby struck out.

There shall be no order as to costs.

It is so ordered.

Dated at ONE STOP CENTRE this 21st of July 2026 .



M. D YUNGE

SENIOR RESIDENT MAGISTRATE