IN THE HIGH COURT FOR ZANZIBAR
HELD AT VUGA
MISC. CIVIL APPLICATION NO. 01 OF 2011

MANTA LIMITED ..... APPLICANT

VERSUS
1. SEALAND LIMITED .....FIRST RESPONDENT
2. CARLO MISTRANGIOLI.....SECOND RESPONDENT

RULING
Date of last Order: 19/01/2012
Date of Ruling: 11/05/2012

Mwampashi, J.

This ruling is made on a preliminary objection taken by Sealand Limited and Mr. Carlo Mistrangioli hereinafter to be referred to as the respondents, in Chamber Application No. 1/2011 filed by Manta Limited hereinafter to be referred to as the applicant. The Chamber Application which according to its title is for revision has been made under S. 129 of the Civil Procedure Decree, Cap 8 and S. 8 of the High Court Act, 1985 both of the Laws of Zanzibar and it is supported by an affidavit of one Mr. Yussuf Salim Hussein. The chamber application arises from the ruling and orders made by the District Registrar (Pemba) Mr. Haji Omar Haji (RM) in High Court Civil Suit No. 1/2010 which was filed by the respondents herein against One Earth Limited hereinafter to be referred to as the defendant.

Before I proceed I find it prudent to give, at this very stage, a history behind the Chamber Application at hand from which the preliminary objection the subject matter of this ruling arises. The respondents in this application i.e Sealand Limited and Mr. Carlo

Mistrangioli did on 07/01/2010 file High Court Civil Suit No. 1/2010 at Pemba Registry against the defendant i.e One Earth Limited. The suit which was based on a breach of contract was for a claim of USD 200,000.00 against the defendant. On 20/01/2010 after the suit has been admitted the District Registrar Mr. Haji Omar Haji (RM) fixed the suit to come on 08/02/2010 for mention and an order for the parties to be served was made. On 08/02/2012 when the suit came for mention only Mr. Mnkonje learned advocate for the plaintiffs/respondents appeared and it is recorded that the defendant did refuse service. Mnkonje therefore prayed for the defendant to be served by way of substituted service under Order V rules 18 and 20(1) of the Civil Procedure Rules, Cap. 8. The District Registrar agreed with Mr. Mnkonje, ordered the defendant to be served in that manner to appear on 26/02/2010 and most importantly he ordered that if the defendant would again fail to make appearance on that fixed date the suit would proceed for final disposal.

When the suit came on 26/02/2010 the defendant did not turn up and Mr. Mnkonje asked the District Registrar to act under Order L1 rule 1(1) (f) and (h) of the Civil Procedure Rules Cap 8 and pronounce judgment against the defendant under Order XV11 rule 1 of the Civil Procedure Rules Cap 8. Thereafter the District Registrar in his ruling dated 15/03/2010 pronounced judgment for the plaintiffs/respondent.

Following the judgment pronounced by the District Registrar, the plaintiffs/respondent filed an application for execution of the decree seeking for orders that the defendant's hotel i.e Manta Reef Hotel is attached and sold for that purpose. The application for execution was therefore fixed to come on 15/04/2010 when the defendant/decree debtor, was required to appear and show cause why the decree should not be executed in the manner applied for. On 15/04/2010 the defendant/decree debtor did not appear and it was submitted by the decree holders that the decree be executed as

earlier prayed. The District Registrar in his ruling dated 20/04/2010 granted the application for execution and ordered that Manta Reef Hotel be attached and sold in execution of the decree. This ruling was followed by an attachment warrant which was issued on 31/05/2010 when the court broker was also directed to take charge.

Then on 30/06/2010 Manta Limited, the applicant in this application at hand, through Mr. Iss-haq 1. Shariff learned advocate filed an application before the District Registrar under a certificate of urgency (Civil Application No. 7/2010) which was supported by an affidavit of the applicant's Chief Executive Officer one Mr. Matthew Saua. In that application which was filed under Orders 1X and XX1V rule 14 of the Civil procedure Rules Cap 8 and also under S. 129 of the Civil Procedure Decree, Cap. 8 and to which the respondents were Sealand Limited and Mr. Carlo Mistrangioli, the applicant prayed for orders in the following form;-

1. That the Honourable Court may be pleased to order for the stay Execution of its Ex-parte judgment pronounced on the.....may 2010.

2. That the Honourable Court may be pleased to set aside its Ex-parte judgment dated May 2010.

3. That the Honourable Court may be pleased to order that the Applicant be joined as Defendant in the main suit.

4. Costs of this application be provided for.

5. Any other order(s) that the Honourable Court may deem fit.

Responding to the above application the respondents through Mr. Mnkonje learned advocate raised a preliminary objection and

asked for the dismissal of the application. The points of objection taken against the application were as follows:-

(i) That the Court was improperly moved.

(ii) That the Court has no jurisdiction to do what it was requested to do.

(iii) That the Applicant has no locus to make the application hence the application was bad, misconceived and improperly made.

(iv) That the Application had a wrong supporting affidavit making it lacking supporting affidavit.

(v) That the jurat in the affidavit was defective fo lack of stating the place of swearing and for being attested by unauthorized person.

(vi) That the verification was defective.

The District Registrar allowed the hearing of the preliminary objection taken by Mr. Mnkonje to proceed by way of written submission and after both two parties have filed their submissions the District Registrar in his ruling dated 22/10/2010 sustained the objection ruling out that the court had not been properly moved and also that the applicant had no locus standi. It was this ruling that prompted the applicant to file this application on 27/01/2011 praying for four orders in the following form;-

1. That this Honourable Court may be pleased to review proceedings, record of the District Registrar the Hon. Haji Omar Haji (RM), revise the proceedings and decision thereon as it may deem fit to determine the legality of the

jurisdiction assumed by the referred Honourable District Registrar and the attendant(sic) execution order.

2. That this Honourable Court be pleased to issue orders to nullify the execution proceedings and orders of the Honourable District Registrar Haji Omar Haji prescribing the Applicant as the Agent of the judgment debtor One Earth Limited.

3. Costs of this application be provided for, and

4. Any other orders and relief as this Honourable Court shall deem fit and just.

The affidavit filed in support of the application has been countered by an affidavit of the respondent's advocate Mr. Mnkonje who as earlier pointed out filed a notice of preliminary objection asking the court to dismiss the application with costs on the following points;-

1. That the High Court has been improperly moved to assume jurisdiction and determine the application.

2. That the application is time barred.

3. That the application is not tenable in that;-

(a) The applicant was not a party to the suit and the judgment and decree they want to be reviewed and revised hence have no locus standi
(b) The application is not objection proceedings.

4. That the applicant does not exist as a legal person under the Laws of Zanzibar.

5. That the decisions to be reviewed are not referred in the supporting affidavit in any way.

6. That the verification of the affidavit in support of the application is bad in law for want of sources of information.

At the hearing of the above preliminary points of objection it was argued by Mr. Mnkonje on the first point in regard of the court not being properly moved that the application has been brought under wrong provisions of law. Mr. Mnkonje did point out that S. 129 of the Civil Procedure Decree, Cap 8 is a serving provision that gives inherent power to the court to be invoked only where an issue before a court is not specifically covered by the law. He continued arguing that the first prayer by the applicant i.e, review of the proceedings and ruling made by the District Registrar, is well covered under S.89 of the Civil Procedure, Cap 8 read together with Order L of the Civil Procedure Rules, Cap 8. He did also submit that revision is well covered under S. 90 of the Civil Procedure Decree, Cap 8. Mr. Mnkonje did therefore insist that S. 129 cannot be applied to the orders sought by the applicants.

Still on the point that the court has not been properly moved Mr. Mnkonje did state that Order XV111 rule 1 of the Civil Procedure Rules is only about notice being served to other party but that S. 8 of the High Court Act (2/1985) which has also been cited as an enabling provision has three subsections but the applicant has failed to indicate he wants the court to assume jurisdiction under what subsection. Mr Mnkonje went on submitting that S. 8 empowers the High Court suo mutto to review and supervise subordinate courts' proceedings but what the applicants seeks to be reviewed in the matter at hand is not from a subordinate court but from the High Court itself.

Mr. Mnkonje did then refer the Court to the case of **Harish Ambaram Jina vs. Abdulrazak Jussa Suleiman**, CAT

(Zanzibar) Civil Appeal No 2/2003 (unreported) where the Court Of Appeal emphatically held that citing wrong provisions of law renders an application incompetent. He did therefore pray for the application to be struck out for being incompetent as it has been brought under wrong provisions of law.

On the second point in regard to the application being time barred it was submitted by Mr. Mnkonje that the decision sought to be reviewed was made by the High Court at Chake Chake on 22/10/2010 and that from that case under Order L1 rule 3 of the Civil Procedure Rules the application needed to be made within 30 days. He therefore pointed out that the application which was filed on 27/01/2011, 95 days fro the date of the decision being complained of, was filed hopelessly out of time.

Going to the third point that the application is not tenable in law Mr. Mnkonje argued that the applicant who was not a party to Civil Suit No 1/2010 from which the proceedings being complained of originate cannot be allowed to ask for the proceedings to be reviewed or revised. Mr. Mnkonje did insist that the applicant cannot ask for review of rulings dated 15/03/2010 and 20/04/2010 as she was not a party to those applications.

Mr. Mnkonje did then go to the second leg of the point that the application is not tenable by submitting that since the application at hand is not by way of objection proceedings as provided under Order XX1V rules 50 and 51 of the Civil Procedure Rules then the same is not tenable. Mr. Mnkonje did explain that the applicant being a third party and a stranger to proceedings that resulted to her alleged property being attached what she needed to do was to ask the court release the attached property after showing that the property does not belong to the decree debtor and therefore not liable for the execution of the decree.

Points 4 and 6 were withdrawn by Mr. Mnkonje and on fifth point it was argued by him that decision sought to be reviewed and revised have not in any way be specifically referred neither in the chamber application nor in the supporting affidavit. He also argued that in an application for review a decision to be reviewed must be properly cited and referred and that relevant grounds for the review as provided under S. 89 of the Civil Procedure Decree must be pointed out.

Dr. Nguluma learned counsel for the applicant did respond to the points of the objection by telling this court that on the point in regard to jurisdiction it must be known that the application or the matter at hand is a very peculiar one as it arises from very peculiar circumstances and therefore that if the court has to administer substantial justice it should allow the application on those peculiar circumstances. Dr. Nguluma did concede that the applicant indeed was not a party to Civil Suit No. 1/2010 but it was from the proceedings of that suit that her property was attached in execution of the decree against the decree debtor One Earth Ltd (defendant) who are in no way related to the applicant. Dr. Nguluma did also argue that it is not understandable why the respondents who very well know that the applicant was not a party to Civil suit No. 1/2010 still insist for the applicant's property to be attached and sold to satisfy the decree issued not against her. He did emphasize that equity demands that whoever comes to equity must come with clean hands.

Dr. Nguluma went on submitting that after her property has been attached the applicant approached the court asking for the attachment order to be lifted because it was not liable but on 22/10/2010 her application was dismissed leaving the issue whether the applicant and One Earth Ltd (defendants) are one and the same hanging. He did also argue that another issue was in regard to the presiding magistrate Hon Haji Omar Haji (DR) who decided the matter as if he was a High Court judge or in the pretext

that he had extended jurisdiction. Dr. Nguluma insisted that the District Registrar assumed powers he did not have. Dr. Nguluma therefore argued that under the circumstances where the applicant was denied the right to challenge the jurisdiction of the presiding magistrate and for errors apparent in the attachment order the applicant who was put in such a situation and because she could not appeal against the decree, she in fact, had no other way of fighting for her property but to come to the High Court pleading for the court to exercise its supervisory and revisionary jurisdiction and determine the correctness of the proceedings and orders arising therefrom.

As on the provision cited and under which the chamber application is brought Dr. Nguluma did submit that the fact that Order XXV111 Rule 1 of the Civil Procedure Rules is said to be irrelevant does not make the application incompetent because other cited provisions are relevant. He further submitted that under S. 8 of the High Court Act and also under S. 129 of the Civil Procedure Decree the court is being moved to exercise its powers and see that the applicant is given the right to be heard and that justice is not defeated by taking the property of the innocent party by force. Dr. Nguluma went on arguing that the purpose of the application is to bring to the attention of the court that there are serious irregularities and violation of the law going on and that the court should invoke its supervisory and revisionary powers to revise the proceedings before the District Registrar. Dr. Nguluma did tell the court that the applicant is merely an eye opener for the court to take note of the complained injustice.

In regard to the case of **Harish Ambaram Jina** cited by Mr. Mnkonje it was argued by Dr. Nguluma that the case is distinguishable because in that case no relevant provision of law was cited and the same matter was still pending before the court.

On the limitation point it was submitted by Dr. Nguluma that the application is not time barred because there is no time limit for a person who was not a party to proceedings being complained of and who brings the matter to the court for serious injustice to be seen and taken care of. He did also argue that in the alternative the applicant filed the application within 30 days upon learning that her property was due for auction.

As for the third point of objection it was submitted by Dr. Nguluma that under the circumstances of the matter the only way the applicant could protect her right over the attached property was for her to come to the High Court seeking for inherent powers to be invoked. Here the court was referred to Mulla on the Code of Civil Procedure Act, 1908, 16 Ed, at page 1422 where it is insisted that the court is not powerless to grant relief when ends of justice and equity so demand.

Responding to the argument that the applicant ought to have instituted objection proceedings Dr. Nguluma submitted that by the time the applicant became aware that there existed a decree that could affect her property it was already hopelessly out of time for her to institute objection proceedings. All in all the applicant complained to the court that she was about to be punished for no fault at all but her complaints were dismissed on 22/10/2010. Dr. Nguluma did therefore argue that the applicant cannot be blamed that she did not take objection proceedings. To cement his argument Dr. Nguluma referred the court to the case of **Chikumbi Chilomo vs. Madaha Mganga**[1986] TLR, 247 where the court held that it is against general ideas of justice that a man should suffer or be punished directly either in person or in property for some wrong which he has not done himself. The court was also referred to the case of **Kamore Oloo vs. Werema Magira** [1983] TLR. 144 where it was held that Order XX1 rules 57-61 of the Civil Procedure Code which are in pari materia to Order XXIV rule 50-54 of the Civil Procedure Rules, Cap 8 do not provide that

objection proceedings is the only way open to a party in objecting to an attachment.

As on the fifth point it was Dr. Nguluma's response that it is clearly stated in the supporting affidavit that records of the proceedings subject to this application had not been supplied to the applicant.

It was lastly submitted by Dr. Nguluma that all the points for the objection are baseless and that they are intended to deny the applicant the accessibility to justice. He did pray for the objection to be overruled and that the court should be guided by the rules of natural justice aud alteram partem i.e, hear the other side and condemn no one without hearing him.

In rebuttal it was argued by Mr. Mnkonje that the applicant admit that she was not a party to Civil Suit No. 1/2010 and that she has neither filed objection proceedings nor any suit for the release of the attached property. Mr. Mnkonje did however beg to differ with Dr. Nguluma that there are peculiar circumstances that has forced the applicant come to the court in the manner they did. He did explain that attaching a property in execution of a decree is not a peculiar thing because if someone thinks that the attached property is not liable for such attachment the law provides that such a person may come to court by way of objection proceedings under order XXIV rule 50-55 of the Civil Procedure Rules or that he can by pass objection proceedings and file a suit to recover the wrongly attached property as it was correctly held in **Omoke Oloo** and **Chikumbi Chilomo** cases.

Mr. Mnkonje did also submit that the application from which the ruling dated 22/10/2010 originates was filed by the applicant seeking for stay of execution, setting aside the ex-parte orders and joining the applicant a defendant. After the dismissal of that application the applicant had a right of appeal but she did not and

for that reason it cannot be argued by the applicant that powers under S. 129 be invoked, it was further argued by Mr. Mnkonje.

Mr. Mnkonje did also submit in rejoinder that it is not true that the applicant was denied the right to challenge the jurisdiction of the presiding District Registrar as there was no suit to challenge the judgment of the High Court and that there was no application to the High Court within 30 days. Mr. Mnkonje did also argue that it is misconceived to argue that the District Registrar purported to act as under extended jurisdiction. He has argued that the District Registrar dealt with the matter as a District Registrar and not under extended jurisdiction.

It was further submitted by Mr. Mnkonje that substantial justice should be done by following the laid down procedures and law. He did also argue that in the case of **Harish Anbaram Jina** it was held that it is wrong when wrong provision of law is cited and the worst when no provision is cited.

On the question of limitation it was argued by Mr. Mnkonje that the application by the applicant for the attachment order to be set aside was made on 30/06/2010 and for that case it cannot be said that the applicant had no notice of the dispute.

Lastly it was argued by Mr. Mnkonje that the objection has not been brought for denying the applicant any of her rights but it is intended to make sure that the law and rules are followed and adhered to. He did therefore pray for the objection to be sustained.

Without beating around the bush it suffices to clearly point out at this very juncture that as it his been correctly submitted by Mr. Mnkonje this application is hopelessly incompetent for a number of good reasons. The court has not been properly moved and the application is not tenable in law. The orders sought by the applicant cannot be granted not only because the application is

brought under wrong provisions of law but also because it is brought by a total stranger who has no locus standi. The proceedings and decision as to how and why the decree against the defendant One Earth Limited was issued is not the business of the Applicant. Issues on how and why the decree in High Court Suit No. 01/2010 was issued or questions whether the decree was properly issued or not can only be raised and asked by a party to that suit and not a stranger like the applicant herein. It is only the party to the suit who can ask the court to quash the proceedings and set aside the judgment and orders.

S. 129 of the Civil Procedure Decree, Cap 8 of the Laws of Zanzibar is a provision that gives the High Court inherent power that can be invoked only in proper situations. S. 129 is a serving provision which is applied not only where justice is in danger of being defeated but where there are no any provision of law covering the situation or under which the justice in danger of being defeated can be rescued. There must be no any other way from which the required justice can be attained for the court to invoke its inherent power under S. 129. Inherent powers of the court under S. 129 are powers that the court cannot sparingly invoke.

The question here is not only whether the orders sought by the applicant in this application i.e review of the proceedings, review of the District Registrar's rulings and orders in High Court Civil Suit No. 1/2010 and the nullification of the execution proceedings can be asked by the Applicant but also and most important whether the said orders cannot be made under any other provisions of law but S. 129 of the Civil Procedure Decree, Cap 8. Are there no any other specific and express provisions of law under which orders made by a District Registrar can be reviewed, revised or set aside? In other words is this case fit for the court to invoke its inherent powers under S. 129?

First of all an application for review generally is made to a judge or magistrate or the court which passed the decree or made the order sought to be reviewed. S. 89© of the Civil Procedure Decree as well as Order L rule 1© of the Civil Procedure Rules, both of Cap 8 of the Laws of Zanzibar, are very clear on this. Any application for review of the District Registrar's decision is therefore supposed to be made to the District Registrar and such an application must be made by a party to that decision and not a stranger.

As for revision this court can make revision only of decisions made by courts which are subordinate to this court. Where any person is dissatisfied with any order of a Registrar or of a District Registrar, as it is to the case at hand, in which the applicant is aggrieved by the District Registrar's ruling dated 22/10/2010, the right course for her to take is clearly provided for under Order L1 rule 1(2) of the Civil Procedure Rues Cap 8. Inherent power under S. 129 of the Civil Procedure Cap 8 cannot therefore be invoked in this case because there are specific and express provisions of law covering the situation.

The applicant has also cited S. 8 of the High Court Act, 1985 as another provision under which this court can be moved to issue the orders sought by her. As it has been correctly submitted by Mr. Mnkonje orders sought by the applicant cannot be issued under this provision. S. 8 of the High Court Act, 1985 gives this court power, jurisdiction and authority to supervise and revise proceedings of subordinate courts. Such courts which are subordinate to this court are mentioned under S. 2 of the Act. Proceedings and orders sought to be revised by the applicant in this application at hand emanates not from any subordinate court but from High Court Civil Suit No. 1/2010 and the District Registrar who presided over the proceedings and whose ruling are being complained of by the applicant made the rulings by exercising powers given to the Registrar and District Registrars under Order L1 rule 1(h) (f) and

(1) of the Civil Procedure Rules, Cap 8. Whether the District Registrar wrongly assumed jurisdiction under those provisions or whether his decisions are correct or not are not questions to be considered here but as it has been pointed out above the proper way to challenge the rulings or decisions made by the District Registrar was by moving this court under Order L1 rule 1(2) of the Rules and not through S. 8 of the High Court Act, 1985.

The court has therefore not been properly moved as the application is brought under wrong and inapplicable provision of law as demonstrated above. The case of **Harish Ambaram Jina** cited by Mr. Mnkonje where the Court of appeal struck out the application for being incompetent because of citing an inapplicable section of law is a correct authority to the case at hand.

As to the point of objection that the application is not tenable as the applicant was not a party to the proceedings giving rise to the decisions being complained of and also because these are not objection proceedings this court agrees with Mr. Mnkonje that the applicant who was not a party to the proceedings from which the decree was issued cannot be heard complaining that the proceedings and the decree were not properly conducted and issued. With great respect to Dr. Nguluma there is not peculiarity in this matter. Situations where in executing decrees wrong properties that are not liable for attachment are attached are very common and the law lays down clear procedure to be followed by any person whose property is so wrongly attached in execution of a decree to which he is not liable. The law requires such a person to file objection proceedings under Order XXIV rule 50 of the Civil Procedure Rules Cap 8 whereby the court shall commence investigation and may even hear evidence in support and against the objection and if it is satisfied that the objection is of merit the attached property can be easily released under rule 52 of Order XX1V. Such an aggrieved person whose property has been wrongly attached is also allowed to bypass objection proceedings

and file a suit claiming his property to be released. It cannot therefore be argued by Dr. Nguluma that what happened in this case is so peculiar or that the applicant had no any other way to protect her alleged attached hotel but by filing this application.

It is sadly observed by this court that the applicant who had a very simple way to protect her alleged wrongly attached property, for reasons not well known by this court, decided to take not only a thorny and difficulty way but also a wrong way that could not take her to the desired destination. It is surprising why did the applicant on 30/06/2010 filed Application No. 7/2010 under Orders 1X, X1 rule 14 and XX1V rule 22 of the Civil Procedure Rules Cap 8 asking for the court among other things to stay the execution process, set aside the ex-parte judgment/decree and make her a defendant to the main suit. After all stay of execution cannot be applied by a stranger under Order XX1V rule 22 but by a decree debtor. Stay of execution for a stranger is covered under Order XX1V rule 50(2). It also leaves a lot to be desired as to why a stranger to a decree can ask the court to set aside the decree and make him/her a defendant to the suit where such a stranger has no interest to the subject matter of the suit. Why waste your strength and resources on something which is non of your business?. Filing Application No 7/2010 was really a misconceived step on part of the Applicant whose only interest, I believe, was to protect her alleged wrongly attached property and not the defendant's interests. No wonder that the application was struck out on 22/102010 for among other ground being incompetent.

It is true as it has been insisted by Dr. Nguluma and as it was held in the case of **Chikumbi Chilomo** that it is against general ideas of justice that a man should suffer or be punished directly either in person or in property for some wrong which he has not done himself. But it is also true that there are clear ways set out by our laws on how a man whose interests or right in respect of a wrongly attached property, are in danger of being violated can easily protect

his said interests or rights. One of such ways where a property is wrongly attached in execution of a decree not issued against the property owner is by objection proceedings as provided under Order XX1V rules 50 to 54 of the Civil Procedure Rules, Cap 8. The other way is for the owner of the wrongly attached property to institute a suit to establish his rights over the alleged wrongly attached property. (See **Omoke Oloo** case). Unfortunately the Applicant has not pursued any of the two ways open to her and her application at hand cannot be said to be tenable in law.

Another point of objection worth dealing with in this application is that in regard to limitation. It is argued by Mr. Mnkonje that since the District Registrar's decision being complained of by the applicant was issued on 22/10/2010 then this application which was filed on 27/01/2011 is time barred because under Order L1 rule 3 of the Civil Procedure Rules, Cap 8 the applicant was supposed to file the application within 30 days from the date of the ruling. On the other hand it is argued by Dr. Nguluma that there is no time limit for a person who was not a party to the proceedings being complained of. He has also submitted that the application was filed within the prescribed time of 30 days because the applicant became aware of the matter when her property was about to be auctioned and not before.

With due respect to Dr. Nguluma I must confess that I have totally failed to understand him when he argues that the application is within the prescribed period and that in as far as this matter is concerned there is no time limit for the applicant to file the application. Although, as it has earlier been observed, in the applicant's application which is titled as an application for revision it has not been clearly stated or shown which particular decision of the District Registrar is sought to be revised but it can be gathered from the orders sought that the applicant's intention is for the entire proceedings and all decisions made by the District Registrar including that in regard to the execution to be revised. This is also

abundantly evidenced throughout the supporting affidavit. What is not in dispute, however, is that the proceedings and the decisions were presided and made by the District Registrar. That being the case therefore it cannot be argued by Dr. Nguluma that the matter at hand has no time limit in as far as strangers are concerned. The right to challenge decisions or orders made by a Registrar or a District Registrar and time within which such decisions or orders can be challenged are not limited only to parties to a particular proceedings but the right and limitation are extended even to strangers. Rule 1(2) of Order XX1V of the Civil Procedure Rules, Cap 8 is clear on that as it refers to any person. So whoever is dissatisfied with whatever the District Registrar decides or does has a right to challenge the District Registrar by filing an application within 30 days from the date of the relevant order or decision under Rule 1(2) and (3).

The fact that the applicant has not specifically stated what particular order(s) of the District Registrar has aggrieved her makes it some how difficulty to determine the date from which the 30 days of limitation are to be computed. I would however ignore any other decision made by the District Registrar in which the Applicant was not a party and concentrate on the decision to which she was a party i.e the decision in Application No. 1/2010. The Ruling and orders in Application No. 1/2010 was delivered on 22/10/2010. The period of 30 days therefore began to run as against the applicant from 22/10/2010 and by simple calculations the 30 days period elapsed on 21/11/2010. That being the case therefore the applicant's application which was filed on 27/01/2011 was hopelessly filed out of time and because prio to the filing of the application no such time had been extended then the application at hand is time barred.

On the reasons extensively demonstrated above this application fails and there are no needs of considering other remaining points of objection as raised by the respondents. The application is

incompetent and is entitled to be struck out for not being properly before the court and for not being tenable but because the application is also time barred then it is hereby dismissed with costs.

Sdg: Abrahama Mwampashi, J.
11/05/2012.

Delivered in court this 11th day of May, 2012 in the presence of Dr. Nguluma (adv) for the applicant and Mr. Omar Mmadi (Adv) H/B for Mr. Mnkonje (adv) for the respondents.

Sdg: Abraham Mwampashi, J.
11/05/2012

I CERTIFY THAT THIS IS A TRUE COPY OF ORIGINAL.

.....
REGISTRAR
HIGH COURT
ZANZIBAR

HIGH COURT VUGA No. 2 ZANZIBAR

/Mbs.