

**IN THE HIGH COURT OF THE UNITED REPUBLIC
OF TANZANIA LABOUR COURT
AT DAR ES SALAAM**

CAT MISCELLANEOUS LABOUR APPLICATION NO. 7 OF 2014

BETWEEN

AGAKHAN EDUCATION SERVICES (T) LTD. APPLICANT

VERSUS

THOMAS BENJAMIN.....RESPONDENT

RULING

03/03/2015 & 05/06/2015

Mipawa, J.

The applicant Agakhan Education Services (T) Ltd. sought extension of time to file a Notice of Appeal to the Court of Appeal of Tanzania against the application for review that was dismissed by Honourable Wambura, J.¹

In order not to labour much on this matter and continuing keeping it in this Court's Registry, this Court notes greatly that this application is at the end meant for the applicant to appeal to the Court of Appeal of Tanzania. That right is so fundamental and it must be exercised from its roots.

The Court of Appeal of Tanzania in the case of **Bulyanhulu Gold Mines Vs. Nicodemus Kajungu and 1511 others**², ruled out and made

¹ Delivered on 30/03/2014

it clear that Section 57 of the Labour Institutions Act gives an automatic right to a party to appeal to the Court of Appeal of Tanzania against the decision of this Court. The Court of Appeal of Tanzania had the view that need for leave hinders one's right to appeal and the same must be given broaden meaning for meeting the spirit of the Section 57 of the Labour Institutions Act, No. 7 of 2004³.

Despite the fact that the respondent had filed a preliminary objection, the same will not serve any purpose therein as the present application per the reasons above, and putting into consideration that philosophy under scored by the Court of Appeal of Tanzania, of no meaning before this Court and the same is hereby humbly struck out. The application is to explore the right to appeal as per Section 57 of the Labour Institutions Act No. 7 of 2010⁴ to the proper forum [i.e. *idest* (that is)] the Court of Appeal of Tanzania. The application as a whole is struck out.

It is so ordered.


I.S. Mipawa
JUDGE
05/06/2015

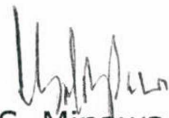
² Civil Application No. 37/2013, per Mmilla, J.A. delivered on 24/08/2014

³ See also this Court's decision in Miscellaneous Appl. No. 18 of 2014, between Joseph Mlaponi Vs. Sandvick Mining Construction (T) Ltd., HCLD at Shinyanga before Mipawa, J. delivered on 29/12/2014

Appearance:-

1. Applicants: Absent
2. Respondent: Mr. Magare, Advocate holding briefs for Mr. Galeba for the Respondent

Court: Ruling has been read today in the presence of Mr. Magare, Advocate.


I.S. Mipawa
JUDGE
05/06/2015