

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**SUMBAWANGA DISTRICT REGISTRY**

**AT SUMBAWANGA**

**MISC. LAND APPLICATION NO. 11 OF 2023**

(From HC Probate and Administration Appeal No. 6 of 2017 in the High Court of  
Tanzania Sumbawanga Sub-Registry)

**FROWIN HAULE.....APPLICANT**

**VERSUS**

**JACKLINE J. KALESA..... RESPONDENT**

14/03/2024 & 14/03/2024

**RULING**

**MWENEMPAZI, J.**

In this application the applicants felt aggrieved by the judgement of the High Court (Hon. A.J. MAMBI, J.) delivered on the 27<sup>th</sup> August, 2018 in the Probate and Administration Appeal No. 6 of 2017. Hence, they filed this application for leave to appeal to the Court of Appeal. The application is made under section 5(1) (c) of the Appellate Jurisdiction Act, 1979 [Cap 141 R.E 2019]. The Parliament of the United Republic of Tanzania has recently enacted a law, **Legal Sector Law (Miscellaneous Amendments) Act, No. 11 Of 2023** which came into effect on 1<sup>st</sup> December, 2023. Section 10 of the said

Act, amends section 5 of the **Appellate jurisdiction Act, [Cap 141 R.E 2023]**, repeals section 5(1) by deleting it and substituting for it the following: -

*"(1) In civil proceedings except where any other written law provides otherwise, an appeal shall lie to the court of appeal against every order or decree, including an ex-parte or preliminary decree made by the High Court, in the exercise of its original, appellate or revisional jurisdiction".*

The changes featured in the quoted provision of law, have done away with the requirement of leave for one to appeal to the court of appeal against any decision of the high court, regardless of whether the impugned decision is an order, decree, and ex parte decree or a preliminary decree when exercising its original, appellate or revisional jurisdiction. In other words, obtaining leave has ceased to be a requirement for one to appeal to the Court of Appeal of Tanzania effectively from 1<sup>st</sup> December, 2023.

Since the changes have a bearing on procedure law, the applicability of changes has a retrospective effect as well. In case of **Director of Public**

**Prosecution (DPP) Vs. Jackson Sifael Mtares** (Criminal Appeal No. 2 of 2018) [2018] TZCA 393 (7 September 2018) it was held that: -

*"Procedural amendments to a law, in absence of anything contrary, are retrospective in the sense that they apply to all actions after the date they came into force even though the actions may have begun earlier or the claim on which the action may be based occurred on the anterior date".*

Under the circumstances, this application is overtaken by events and therefore the same is struck out of the registry. No order is issued as to costs. It is ordered accordingly.

Dated and delivered at Sumbawanga this 14<sup>th</sup> March, 2024.

  
**T.M. MWENEMPAZI**  
**JUDGE**

Ruling delivered this 14<sup>th</sup> March, 2024 in the presence of Mr. Frowin Haule the applicant herein named and Ms. Jackline J. Kalesa, the Respondents.



  
**T.M. MWENEMPAZI**  
**JUDGE**  
**14/03/2024**