

<p>In the Court of Appeal of Tanzania at Dar es Salaam Civil application No 133 of 2005 KAJI, J.A</p>	<p>D.N.BAHRAM AND CO.LTD DARAHMAN NURNMOHAED BAHRAM MERBIBI DAORAHAMAN BAHARAM VS TANZANIA POSTAL BANK MATEW THOMAS MBATTA JOSEPH SIMBILINGUNWA MWACHULA (An application for extension of time of the judgment of the High Court of Tanzania Commercial Division at Dar es Salaam.</p>	<p>- Application under Rule 58 (1) of the Court of Appeal Rules, 1979 for non appearance of the applicants.</p>
---	--	---

**IN THE COURT OF APPEAL OF TANZANIA
AT DAR ES SALAAM**

CIVIL APPLICATION NO. 133 OF 2005

D. N. BAHRAM AND CO. LIMITED1ST APPLICANT
DARAHMAN NURNMOHAED BAHRAM.....2ND APPLICANT
MERBIBI DADRAHAMAN BAHRAM.....3RD APPLICANT

VERSUS

TANZANIA POSTAL BANK.....1ST RESPONDENT
MATHEW THOMAS MBATTA.....2ND RESPONDENT
JOSEPH SIMBILINGUNWA MWACHULA.....3RD RESPONDENT

**(Applicant for Extend of Time of the Judgement
of High Court of Tanzania Commercial
Division at Dar es Salaam)**

Dated 7th day of March, 2005
in
Commercial Case No. 106 of 2003

ORDER

KAJI, J.A.:

The applicants are absent. The notices for hearing were served on their advocate Mr. Mkali who has been suspended. The 2nd and 3rd respondents are also absent. Their notices were addressed to their advocate Mr. Bajana who, it is alleged, is either out of the country or is suspended. His office has all the time been closed. The 1st respondent's advocate Mr. Malimi has urged me to dismiss the application under Rule 58 (1) of the Court of Appeal Rules, 1979 for non - appearance of the applicants and other reasons he gave.

Since the applicants were not served, any adverse action would be unfair as this would amount to condemning them unheard. For the interest of justice it is desirable to adjourn hearing of the preliminary objection with direction that when the matter will be fixed for the hearing of the preliminary objection or otherwise, the applicants and the 2nd & 3rd respondents will have to be served in person. Hearing adjourned to a date to be fixed.

DATED at DAR ES SALAAM this 19th day of September, 2007.

S. N. KAJI
JUSTICE OF APPEAL

I certify that this is a true copy of the original.

S. M. RUMANYIKA
DEPUTY REGISTRAR