

<p>In the Court of Appeal of Tanzania at Dar es Salaam, Civil Application No 42 of 2006</p>	<p>MIRIAM ISMAIL VS SALUM H. MACHWIKO</p>	<ul style="list-style-type: none"> - Consequences of citing wrong provisions of the law in an application. - Case of Citibank Tanzania Ltd VS Tanzania Telecommunications Co. Ltd and 4 others Civil Application No. 64 of 2003 (1) (Unreported) - Case of Almas Iddie Mwinyi VS <ul style="list-style-type: none"> 1. NBC 2. Mrs Ngeme Mbita – Civil Application No.88 1998 (Unreported) - Case of Abdlhamud Ramadhan Mjombo and 2 others VS. Ali Salim Ali and 2 others Civil Application No.4 of 2004 (Unreported) - Case of NBC VS. Saurudin Meghji Civil Application No 20 of 1997 (Unreported) - Consequences of absence of a copy of the decision which is intended to be impugred.
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**IN THE COURT OF APPEAL OF TANZANIA
AT DAR ES SALAAM**

CIVIL APPLICATION NO. 42 OF 2006

MARIAM ISMAIL.....APPLICANT

VERSUS

SALUM H. MACHWIKO.....RESPONDENT

**(Application for Extension of time.)
From Decision of the High Court of Tanzania
at Dar es Salaam)**

(Oriyo, J)

Dated the 28th November, 2005
in
PC. Civil Appeal No.39 of 2005

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ORDER

KAJI, J, A.

By a notice of motion the applicant Mariam Ismail is purportedly moving the Court for an order that time be extended within which to file an application for a revision of the order of the High Court at Dar es Salaam (Oriyo J) delivered on 28/ 11/2005 in P.C. Civil appeal No. 39 of 2005. I say "she is purportedly moving the Court" because she has cited a wrong provision of the law. Her intention is to move the Court for an order that she be allowed to apply for revision out of time under Rule 8 of the Court of Appeal Rules, 1979. However she has cited Rule 9 (2) (b) of the Court Rules 1979 which is applicable to applications for stay of execution of a decree. In that respect she has not properly moved the court because she has not cited the relevant provision from which the court derives the power to hear and determine the application.

This Court has consistently held that in applications, the applicant has to cite the relevant provision from which the court derives the power to hear and determine the application. For example, the cases of CITI BANK TANZANIA LTD Versus TANZANIA TELECOMMUNICATIONS CO. LTD AND 4 OTHERS – Civil Application No. 64 of 2003 (unreported); ALMAS IDDIE MWINYI Versus (1) NATIONAL BANK OF COMMERCE (2) MRS. NGEME MBITA- Civil Application No. 88 of 1998 (unreported); ABDULHAMID RAMADHAN MJOMBO AND 2 OTHERS Versus ALI SALIM ALI AND 2 OTHERS – Civil Application No. 4 of 2004 (unreported); NATIONAL BANK OF COMMERCE Versus SANRUDIN MEGHJI – Civil Application No. 20 of 1997 (unreported);.

Another snag in this application is the absence of a copy of the decision which is intended to be impugned. Definitely this application is not properly before the Court. It is incompetent for the above reasons. It is hereby struck out.

According to the nature of the case it is desirable that each party should bear own costs. It is so ordered.

DATED at DAR ES SALAAM this 10th day of November, 2006.

S.N. KAJI
JUSTICE OF APPEAL

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

N. P. Z CHOCHA
AG. DEPUTY REGISTRAR