

Ukongu prison at Dar es Salaam and back to Maweni, Tanga. Hence the delay in seeking the intended review.

The Republic was represented by Mr. Oswald Tibabyekomya, learned Senior State Attorney. He faulted the affidavit in support of the application for being fatally defective, citing the case **Salima Vuai Fom versus the Registrar of Cooperative Societies and Three Others** (1995) TLR 75 in which the Court held that –

- (i) *Where an affidavit is made on information, it should not be acted upon by any court unless the sources of information are specified.*

In this application, the learned Senior State Attorney submitted, the affidavit in support of the application lacks a verification clause and it does not disclose the sources of information so it is fatally defective and it ought to be disregarded altogether.

Furthermore, the learned Senior State Attorney observed that there is no sufficient ground for extending time because the applicant has not shown any substantial ground for delaying the intended

review, citing the case of **Miraji Seif versus Republic**, Criminal Application No. 2 of 2009 (CA) (unreported).

The issue is whether there is justification for extending the time for applying for review.

A reading of the affidavit, which as the learned Senior State Attorney observed, is defective for lack of verification, it appears to me that the applicant is in fact challenging the decision passed against him when the Court dismissed his appeal for being devoid of merit. Which is to say, the applicant is appealing or reopening the appeal which has been finally determined by the Court. Our legal system does not cater for that type of situation because the Court of Appeal is the highest court of the land.

Review is provided for under Rule 66 of the Court Rules, 2009 which states *inter-alia*:

66 (1) The Court may review its judgement or order, but no application for review shall be entertained except on the following grounds -

(a) the decision was based on a manifest error on the face of the record resulting in the miscarriage of justice; or

(b) a party was wrongly deprived of an opportunity to be heard;

***(c) the court's decision is a nullity;
or***

(d) the court had no jurisdiction to entertain the case; or

(e) the judgement was procured illegally, or by fraud or perjury.

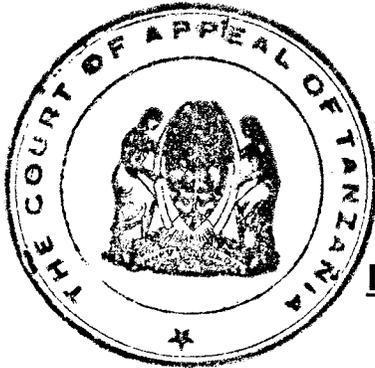
Whereas the applicant is challenging the decision of the Court, he has not shown any of the above grounds of review in his affidavit in terms of a manifest error apparent on the face of the record or not being accorded a hearing or the decision being invalid in law or the court lacking jurisdiction or the judgement being procured illegally, fraudulently or through deception.

Under the circumstances the application for extension of time is devoid of merit. For want of sufficient ground for extending the period of applying for review, I accordingly dismiss the application for lacking merit.

DATED at TANGA this 13th day of March, 2010.

E. N. MUNUO
JUSTICE OF APPEAL

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



(Handwritten Signature)
(N. N. CHUSI)
DEPUTY REGISTRAR