

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**  
**IN THE SUB-REGISTRY OF MWANZA**  
**AT MWANZA**

**MISCELLANEOUS CRIMINAL APPLICATION CASE NO. 44 OF 2022**

*(Arising from Criminal Application No. 12 of 2022, originating from Criminal case No. 25 of 2021 in the District Court of Nyamagana at Mwanza)*

**SALU JOSEPH MAIGE.....APPELLANT**

**VERSUS**

**KULWA JOSHUA .....RESPONDENT**

**RULING**

*31<sup>st</sup> October, 2022*

**Kahyoza, J.**

**Salu Joseph** was an accused person before the primary court conducted him to pay a fine of Tzs. 200,000/= and compensation of Tzs. 1,600,000/=. He appealed to the District Court and lost the appeal. Dissatisfied still, he lodged an appeal to this Court. The appeal was first fixed for hearing on 7/12/2021. Salu Joseph Maige, the appellant and Kulwas Joshua, the respondent did not appear. The appeal was adjourned to another date. It was fixed for hearing on 21/2/2022. On that date both the appellant and the respondent were absent. The court dismissed the appeal for want of prosecution.

Salu Joseph got information that his appeal was dismissed. He decided to institute an application seeking to restore the dismissed appeal. The

application was filed on 4/4/2022 and fixed for hearing on 4/07/2022. On that day both, the appellant and the respondent were absent. The court dismissed the application for want of prosecution.

Later on 10/08/2022, Salu Joseph instituted another application seeking to restore the application dismissed on 4/4/2022. The application was fixed for hearing today 31/10/2022. The applicant is absent. As the record bears testimony, there is no proof that the applicant served the respondent. The applicant is not serious to pursue his appeal. He is abusing the court's due process. He prays hide and seek, he appears to file an appeal or application and disappears when it is fixed for hearing. Such a behaviour is condemned.

I dismiss the application and order the file to be returned to the primary court for executing its order for payment of compensation.

It is ordered accordingly.



A handwritten signature in blue ink, appearing to read 'J.R. Kahyoza'.

**J.R.Kahyoza**

**Judge**

**31/10/2022**

**Court:** Ruling delivered in the absence of the parties. C/C Ms. Jackline (RMA) present

A handwritten signature in blue ink, appearing to read 'J.R. Kahyoza'.

**J.R.Kahyoza**

**Judge**

**31/10/2022**