



AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

Case Summary: Application no. 006/2016

Mgosi Mwita Makungu (Applicant)

V.

United Republic of Tanzania (Respondent)

A. SUMMARY OF FACTS

1. The Applicant is serving a 30 year sentence at Butimba Central Prison, Mwanza following his conviction for robbery with violence. He was charged with the offence in accordance with Sections 285 and 286 of the Penal Code and tried in Criminal Case No. 278 of 1995 and Criminal Case No. 244 of 1995.
2. The Application is based on Criminal Case No. 278 of 1995 and Criminal Case No. 244 of 1995 from the District Court of Bunda, Tanzania. He was sentenced to 15 years' imprisonment in Case No. 278 of 1995 on 15 April 1996 and to 15 years imprisonment in Case No. 244 of 1995 on 18 June 1996.
3. The Applicant states that being dissatisfied with the convictions and sentences, he indicated his intentions to appeal within the stipulated time prescribed by law.
4. The Applicant alleges that he has made several requests to the District Court of Bunda for copies of the judgments and records of proceedings of both Criminal Cases No. 278 and 244 of 1995 to enable him file his appeal to the High Court. The Applicant further alleges that it is now twenty (20) years since he has been requesting for the said judgments and records of proceedings but no judgments or records of the proceedings have been made available to him to date.

B. COMPLAINTS

5. The Applicant alleges that the failure of the District Court to provide him with the judgments and records of proceedings as requested, constitute an administrative omission and a contravention of his fundamental human rights of equality before the law as provided for by Article 13(1) of the Constitution of the United Republic of Tanzania.
6. The Applicant further alleges that the above administrative omission also contravenes Articles 13(3), 13(4), 13(6)(a), 26(1) and 26(2) of the Constitution of the United Republic of Tanzania 1977 and that the cited articles form the basis of this Application.
7. The Applicant submits that he has four years left to complete his sentence and if immediate action is not taken to enable him to be supplied with the judgments and records of proceedings in Criminal CaseS No. 278 and 244 of 1995, the injustice and violations already occasioned to him, and which are continuing, will be incurable.

C. APPLICANTS PRAYERS

8. The Applicant seeks the following reliefs:
 - a. Ordering of interim measures to avoid the continuing injustice and violations already effected upon him;
 - b. Provision of legal assistance or legal representation;
 - c. A declaratory order that the administrative omission complained of is unconstitutional;
 - d. A declaratory order compelling the Respondent to (immediately or within a specific period) supply the Applicant with the judgments and records of proceedings in Criminal Cases No. 278 and 244 of 1995, and to immediately release the Applicant upon failure to oblige;

- e. An order as to costs;
- f. Any other order(s) / relief(s) the Court may deem fit to grant that would suit the current and future interests of justice in the circumstances of the case.