

**IN THE HIGH COURT OF TANZANIA**

**AT DAR ES SALAAM**

**MISC. CIVIL APPLICATION NO. 177 OF 2004**

**MOHAMED MASUD ISSA . . . . . APPLICANT**

**VERSUS**

**HAMIRA HASSAN . . . . . RESPONDENT**

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*Date of last order – 17/7/2008*

*Date of Ruling – 3/10/2008*

**R U L I N G**

**Shangwa, J.**

This is an application for enlargement of time to appeal against the decision of the District Court of Kinondoni in Probate Cause No. 60 of 2000. It has been filed under S.14 of the Law of Limitation Act Cap. 89 R.E. 2002. It was disposed of by way of written submissions which were filed by Mr. Taslima, Advocate for the Applicant and Mr. Nyangarika, Advocate for the Respondent.

The reason for the delay in filing the appeal within time are contained in the affidavit of the Applicant Mohamed Masud Issa. They are as follows:-

- 1. That the Applicant had lodged an appeal within time on 19/9/2002.*
- 2. That the said appeal was registered as Civil Appeal No. 203 of 2002.*
- 3. That the clerk who received the appeal documents misplaced them.*
- 4. That those documents were found four months later from the date of filing the appeal.*
- 5. That the Appeal was struck out on 30/3/2004 as it was not accompanied by drawn orders.*

*6. That the intended appeal stands  
overwhelming chances of success.*

Whereas counsel for the Applicant submitted that the above mentioned reasons constitute sufficient cause for the delay in lodging the appeal, counsel for the Respondent argued that those reasons are not good and sufficient reasons for the delay in lodging the appeal.

In my opinion, the reasons advanced by the Applicant for the delay in filing his appeal are sufficient reasons. For me, I take into consideration the fact that the Applicant had earlier before lodged his appeal within time of whose documents were misplaced by the court clerk; and the fact that his appeal was struck out by this court. Having taken into consideration the said facts, I hold that the Applicant had sufficient cause for the delay in filing his appeal. Therefore, I grant his application. The Applicant has to

lodge his appeal within a month from today. Each party to bear his own costs.



  
A. Shangwa

**JUDGE**

3/10/2008

Delivered in open court this 3<sup>rd</sup> day of October, 2008 in the presence of Mr. Abubakar, Advocate and in the absence of the Respondent.

  
A. Shangwa

**JUDGE**

3/10/2008