

IN THE HIGH COURT OF TANZANIA

AT TABORA

MISCELLANEOUS CIVIL APPLICATION NO. 20 OF 2014

(Arising out of Tabora District Court Civil Appeal No. 16/2013)

SELEMANI MRISHOAPPLICANT

VERSUS

MAGRETH SAIMONRESPONDENT

RULING

2nd & 29th September, 2014

RUMANYIKA, J

The application is for extension of time within which one to lodge appeal against Tabora District Court decree in civil appeal No. 16 of 2013. Whose copy according to him, the Applicant received on 13/02/2014.

The application is supported by affidavit of Selemani Mrisho. Whose contents as will witness shortly hereinafter, he adopted whorily during the hearing. The parties appear in person.

I don't think that it would bring no harm had I stated in a nutshell though, a brief back ground to the application. It began with

the Applicant securing loan of shs. 300,000/= from an elderly lady Respondent. He never repaid it in full within the agreed period. Even with time extended the Applicant didn't. The dispute was referred to the Urban Primary court herein town. The Applicant lost the war and battle. Yet again, his appeal as said, (No. 16 of 2013 in the District Court) was not successful. He intends to appeal against it. He is late in the day. Hence this application.

The Applicant submits that he was caught up, it appears immediately after the impugned judgment was out. As his son was involved in a road accident on Urambo road herein town. He had to attend to him. Then in May 2014 had to travel and attend to his mother who also fell sick at Usoke. That he still attends to both of them todate. That could not have appealed within time against the 22/03/2014 decision.

Examined by court, the Applicant stated that although never had documentary evidence, the son was admitted for two days at Kitete hospital. Then at Nkinga hospital stay for another two weeks.

The elderly Respondent in reply simply told this court that the Applicant was only wasting the court's time.

Now the issue is whether the Applicant has assigned good and or sufficient cause for the delay. As that indeed is the fundamental principle for granting extension of time. Infact he has assigned none!

For avoidance of the would be endless litigation, there can be no open ended period within which one to seek a court remedy. On this one, I don't think am compelled to cite any authorities. Courts have stated so several times and repeatedly.

The only ground assigned by the Applicant for his delay was him being occupied attending to his son and mother in hospital beds then. But he produced no material documentaries. Like discharge cards. Leave alone, the ordinary respective medical chits. A party or dependant thereof being indisposed could be sufficiently ground grant of extension of time. But also, the allegations need be sufficient and reasonably believed. Not mere words by the Applicant. The Applicant having assigned no reason, I will dismiss as hereby do, the application with costs. Ordered accordingly.

R/A explained.

S.M. RUMANYIKA

JUDGE

26/09/2014

Delivered under my hand and seal of the court in chambers this 29/09/2014. In the presence of the Appellant and Respondent.

S.M. RUMANYIKA

JUDGE

29/09/2014