

IN THE HIGH COURT OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)
AT DAR ES SALAAM
MISC. CIVIL APPLICATION NO. 857 OF 2016

(Arising from decision of the District Court at Mkuranga in
PC Matrimonial appeal No. 2 of 2016)

CARLOS ALBERT KOBE.....APPLICANT

VERSUS

YUSTA WILLIAM KANOTI..... RESPONDENT

RULING

MURUKE, J.

Applicant has filed chamber application for extension of time to file appeal. Reason are stated in the affidavit in support sworn by Carlos Albert Kobe the applicant particularly paragraph six, and seven. Respondent filed counter affidavit to refute the same. To her there are no sufficient grounds. On the hearing date, parties were both in person. By consent of the parties application was disposed of by way of written submissions.

Both parties submitted along lines their affidavits. Having gone through submissions by both parties, it is worth noting that, letter

marked **annexture B** attached, to the affidavit in support of the application, requesting for proceedings, does not show whether it was received by the district court. It is not a matter of writing letter but rather, was it received by the court. What follow up did the applicant made? Is there any evidence to support that applicant made follow up without any respond from the court? Definitely there is none. For the court to be satisfied, that there are sufficient cause, and grant extension, each day that passes beyond prescribed time counts and has to be counted for. Reason advanced by applicant that was making a follow up of the judgment and decree without evidence cannot constitute reasonable or sufficient cause. In the case of Blue line Enterprises Ltd Vs East African Development Bank Misc. Civil Cause No. 135/95 where Katiti, J. Held that:-

"It is trite law that extension of time must be for sufficient cause and that extension of time cannot be claimed as of right, that the power to grant this concession is discretionary, which discretion is to be exercised judicially. Upon sufficient cause being shown which has to be objectively assessed by court".

Applicant has done nothing apart from bare assertion that he was making a follow up of Judgment with Mkuranga District Court. It

was expected that applicant would make an account of each day he made a follow up at Mkuranga district court, in order for the applicant to have the benefit as put very clear by Nsekela, J. In Misc. Civ. Cause No. 128/97, Al Imran Investment Ltd Vs Printpack Tanzania and another where it was held that:-

"Applicant ought to explain the delay of every day that passes beyond the prescribed period of limitation".

Equally there is no any account of each day passed in terms of making a follow up of the said copies at Mkuranga District Court. In Misc. Civil reference No. 14 of 1998 between Alison Xerox Sila Vs Tanzania Harbours Authority, Court of Appeal (unreported) held that:-

"lapses, inaction or negligence on the part of the applicant seeking extension of time, does not constitute sufficient cause to warrant extension of time under section 14 (1) of the of limitation"

Thus to this court no sufficient cause shown by the applicant. Thus application dismissed with costs. It is so ordered.


Z. G. Muruke

JUDGE

23/02/2018

Ruling delivered in the presence of the applicant and respondent both in persons.



Z. G. Muruke

JUDGE

23/02/2018