

IN THE HIGH COURT OF TANZANIA

AT DAR ES SALAAM

MISC. CIVIL APPLICATION NO. 267 OF 2017

HAFIDHU FADHILI APPLICANT

VERSUS

AZIZA CHANDE KITONE RESPONDENT

14/5/2018 & 17/5/2018

RULING

I.P.KITUSI ,J.

This is an application for extension of time to appeal the decision of Temeke District Court sitting in its appellate jurisdiction, dated 14th August 2016. The applicant Hafidhu Fadhili lost both in Matrimonial Cause No. 13 of 2016 before the Primary Court of Mbagala at Temeke and before Temeke District Court on appeal.

This application is made under section 14(1) of the Law of Limitation Act, cap 89 and supported by the applicant's affidavit. What seems to be the main ground to support the application is that the applicant's appeal to this court filed earlier was struck out (Muruke, J) for being time barred. This application seeks to cure that ailment. In his brief submissions the applicant stated that after the dismissal of his appeal (P.C Civil Appeal No. 6 of 2017) he travelled and that made him delay in instituting this application.

By way of counter affidavit taken by Azizi Chande Kitone the respondent, the application is contested as being supported by no sufficient cause and as being a mere delaying tactic. In her equally brief submissions the respondents repeated the contentions contained in her counter affidavit and its supplementary.

The law requires that an applicant gives sufficient reasons for the delay, before an application as the present may be granted. **[Kalunga and Company Advocates V. National Bank of Commerce** [200] TLR 235.

In this case the applicant has not accounted for the period between 6 March 2017 when his first appeal was struck out by this court and 22 May 2017 a period of 76 days when he filed this application. He simply stated that he travelled without providing details or specifying the dates.

It is my conclusion that the applicant has not accounted for those days, and therefore the application lacks merits. Accordingly the application is dismissed with costs.



I.P. Kitusi
I.P.KITUSI

JUDGE

17/5/2018

17/5/2018

Coram : Hon. A. Magutu DR

Applicant : Present

Respondent : Present

Cc : Lusago

Court : The ruling delivered on 17/05/2018 in presence of both parties

A.A.MAGUTU

DR

17/5/2018

Right of appeal full explained.

A.A.MAGUTU

DR

17/5/2018