

**IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA**  
**AT DAR ES SALAAM**

**MISCELLANEOUS CIVIL APPLICATION NO. 336 OF 2017**

*(Originating from District Court in Civil Appeal No. 68 of 2014, from  
Mbagala Primary Court in Madai No. 54 of 2014)*

**GODWIN KASILIMA ----- APPLICANT**

**VERSUS**

**MARIAM OMARY----- RESPONDENT**

**RULING**

**MUTUNGI, J.**

The respondent successfully petitioned for divorce against the Applicant before the Mbagala Primary Court. It would appear the applicant was aggrieved among other things, with the division of the matrimonial assets alleged acquired during the subsistence of the marriage. He subsequently preferred an appeal before the Temeke District Court (the first appellate court). However, the said appeal was dismissed for there being no concrete reasons to fault the findings of the trial court.

The applicant is still aggrieved but considering the time limit to appeal had already expired, he has preferred the instant application with the following reliefs sought: -

1. *Extend time to appeal against the decision of Temeke District Court of 18<sup>th</sup> June, 2015 delivered by Hon. Tarimo, SRM.*
2. *Costs of the application abide the results of this application.*
3. *Any other order this Honourable court may deem fit and just to grant.*

The application has been brought by a chamber summons under **section 25 (1) (b) of the Magistrates' Courts Act [Cap. 11 R.E 2002]** supported by an Affidavit sworn by the applicant.

The reasons for the delay are provided for in the applicant's Affidavit. Basically, he deposed that having being aggrieved by the decision of the first appellate court, the applicant filed Miscellaneous Civil Application No. 485 of 2015. However, on 8/2/2016 this court (Hon. Feleshi, J) granted the applicant 14 days to enable the applicant to

file a revision. On 18/2/2016 the applicant filed herein Civil Revision No. 9 of 2016 seeking the court to revise the decision of the first appellate court.

The applicant further stated that, on 16/2/2017 the said revision was struck out and he was advised to institute an appeal. He was subsequently furnished with the copy of the said order on 13/5/2017. Thereafter the applicant proceeded to file the instant application on 16/6/2017. The matter at hand proceeded ex-parte against the respondent. The reason being, the respondent never filed a Counter Affidavit nor did he appear when the matter was called for hearing.

The applicant submitted briefly that, upon being advised by the court to lodge an appeal, he consulted a lawyer who advised him to file the instant application.

The issue is whether the application has merits or otherwise.

I have gone through the entire court record as well as the submission of the applicant, I find the applicant has failed to advance sufficient reasons for the delay. The reason being that, the applicant upon being advised to lodge an appeal

by this court on 16/2/2017, he filed the instant application on 16/6/2017. The reason advanced is that, he was supplied with the copy of that order on 13/5/2017.

However, the applicant has not accounted for the delay from 13/5/2017 when he was supplied with the said copy as alleged to 16/6/2017 when he filed the instant application. There is almost a delay period of more than thirty (30) days. Neither is any reason it reflected in the applicant's corresponding Affidavit.

In the case of **VODACOM FOUNDATION VERSUS COMMISSIONER GENERAL (TRA), CIVIL APPLICATION NO. 107/ 20 OF 2017 (CAT-DSM) (UNREPORTED)** at pages 9 and 10, the Court of Appeal had this to say and I quote;

*"...Delay even **a single day, has to be accounted** for otherwise there would be no point of having rules prescribing periods within which certain steps have to be taken...**Those who come to courts of law must not show unnecessary delay in doing so; they must show great diligence**".*  
*[Emphasis is mine]*

From the foregoing analysis, I find the applicant has failed to advance sufficient reasons for the delay. The same is sanctioned to a dismissal. Consequently, the application is hereby dismissed with no order for costs.

It is so ordered.



  
B. R. Mutungi

**JUDGE**

**22/6/2018**

Read this day of 22/6/2018 in presence of the applicant.

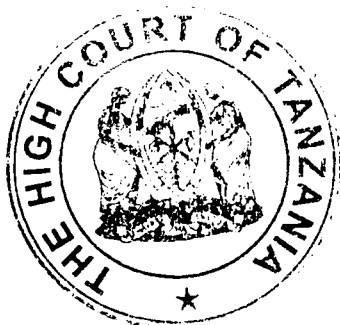


  
B. R. Mutungi

**JUDGE**

**22/6/2018**

Right of appeal explained.



  
B. R. Mutungi

**JUDGE**

**22/6/2018**