

**IN THE HIGH COURT OF TANZANIA
DAR ES SALAAM DISTRICT REGISTRY**

AT DAR ES SALAAM

CIVIL APPEAL NO. 10 OF 2018

AMINA KHALFANI.....APPELLANT

VERSUS

SARA LIFA LYIMO.....RESPONDENT

RULING

MURUKE, J.

This is a second appeal. The matter having gone through first appellate court was late filed on 11st January, 2018 vide exchequer receipt No. 18882315. It is worth noting that Ruling subject of this appeal was delivered on 30th November, 2017. Appeal before this court on the matter originating from primary court, time is provided by Magistrates' Courts Act [Cap. 11 R.E. 2002] section 25 (1) (b) which read as follows:-

Save as hereinafter provide in any other proceedings any party, if aggrieved by the decision or order of a district court in the exercise of its appellate or revisional jurisdiction may, within thirty days after the date of the decision or order, appeal therefrom to the High Court; and the High Court may extend the time for

filing an appeal either before or after such period of thirty days has expired.

Though the above law avails discretionary powers to the court to enlarge time to appeal either before or after expiry of the period of limitation; enlargement of time can only be sought in a requisite application. In the event law gives room for one to seek enlargement after expiry of limitation period, that accommodates the fate of late appeals where one can lodge an application to seek enlargement and avail reasonable or sufficient cause for the delay. Such extension of time cannot be automatically be assumed by parties unless a requisite application is properly sought through the appropriate forum.

In the present case, Judgment was delivered on 30th November, 2017. Thirty days elapsed on 30th December, 2017. Appeal filed on 11st January, 2018, obvious appeal is out of time. In the circumstances, appeal is struck out.



Z. G. Muruke

JUDGE

15/02/2018