

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

AT DAR ES SALAAM

CIVIL APPLICATION NO. 118 OF 2019

TELESPHORY A. MTUI..... APPLICANT

VERSUS

EDRICK KATANO..... RESPONDENT

Date of last Order: 05/09/2019

Date of Ruling: 04/10/2019

RULING

MGONYA, J.

In this application, the Applicant moves the Court under the provisions of **section 14 (1) of the Law of Limitation Act Cap 89 [R.E. 2002]**, applying for extension of time within which the Applicant shall file an Application for **Revision of Misc. Application No. 142/2018** of Temeke District Court delivered before Hon. Mushi RM. The Application is in support of an Affidavit sworn by the Applicant. The Applicant in this Application also prays that this Honorable Court make any other order this Court deems fit and just to grant.

While the matter was scheduled for hearing the Applicant prayed before this Court to precede *Ex parte* as a result of the Respondent's failure to adhere to Court orders various times. Prayer was granted and hence this matter preceded *Ex parte*. The matter was ordered to proceed by way of written submissions, where the Applicants' written submission was filed before this Honorable Court.

Having carefully gone through the submission by the Applicant in record I do not intend to reproduce them as they are clearly understood. Without meanders, I will go straight to the issue at hand.

An application for extension of time is a creature of statute and lies within the discretion of the Court. The case of ***MEIS INDUSTRIES LIMITED and OTHERS vs TWIGA BANKCORP (Misc. Commercial Cause No. 243 of 2015) [2016] TZHC Com D 17***, observed that;

"That is to say, an application for extension of time is entirely in discretion of the Court to grant or to refuse, and that the extension of time may only be granted where it has sufficiently established that the delay was with sufficient cause".

The same decision was again held in the case of ***BENEDICT MUMELLO VS. BANK OF TANZANIA, Civil Appeal No. 12 of 2012*** the court held that inter alia:

"It is trite law that an application for extension of time is entirely in the discretion of the court to grant or refuse it, and that extension of time may only be granted where it has been sufficiently established that the delay was with sufficient cause".

Counsel for the Applicant in his submission averred that the ruling before the Temeke District Court after being delivered the Applicant being aggrieved, timely filed a letter seeking to be supplied with the Ruling and drawn order of the same since there was a matter of illegality in the decision and hence intended to file for Revision.

After lodging the letter on 28/12/2018 with the Court for preparation of the named documents above, it is the Court that delayed in preparing the documents and supplying the Applicant with the said copies of ruling and drawn order so as to be annexed when filing the Application for revision. The same was supplied to the Applicant on **26/02/2019**. From the time the Applicant filed a letter requesting the records to the time the

same were availed to him, **60 days** for filing Revision had lapsed already hence this Application.

The delay that caused this Application to my opinion is sufficient cause as decided in the case of ***TANZANIA TELECOMMUNICATION CO. LIMITED vs MAKAMABA MSHINDO and 133 OTHERS, Civil Appl. No. 40/2014 CAT***, where it was observed by the Court that delay to be supplied record is good cause.

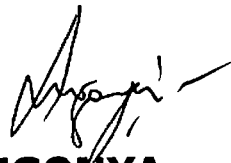
It is within my knowledge, from the above that an Application for extension of time gives way for hearing of what one was aggrieved from. It is a trite law that for one who seeks to enjoy the Courts discretion on extension of time is strictly bound to have a sufficient cause for the delay.

Going back to the reasons adduced by the Applicant and with the position of law, without hesitation I find it proper to grant the prayers sought by the Applicant. All said, the **Application is granted accordingly.**

It is so ordered.


L.E MGONYA
JUDGE
04/10/2019

Court: Ruling delivered in chamber in the presence of Mr. Joseph Asenga, Advocate for the Applicant and Ms. Emma RMA this 04th day of October, 2019.



L.E MGONYA
JUDGE
04/10/2019