

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

MISCELLANEOUS CIVIL APPLICATION NO. 676 OF 2019

(Originating from Matrimonial Cause No. 100/2016 at Kinondoni District Court
delivered on 05.07.2019)

ZACHARIA J. MWANGOSI-----	<i>VERSUS</i>	APPLICANT
GETRUDE Z. MWANGOSI	-----	RESPONDENT

RULING

Date of last order: 10.06.2020

Date of Ruling: 15.07.2020

Ebrahim, J.:

The applicant herein lodged the instant application under the provisions of **Section 14(1) of the Law of Limitation Act, Cap 89 RE 2002 and Section 95 of the Civil Procedure Code, Cap 33 RE 2002** praying for extension of time to file his appeal. The application is supported by an affidavit of Mr. Julius M.J. Kamote, Counsel for the Applicant.

Both parties appeared in person unrepresented.

At the hearing, the Applicant adopted the contents of his affidavit and explained the series of events starting from 02.08.2019 when he first lodged a letter at the trial court applying for a copy of judgement and decree. He

said he was told to go again on 05.08.2019 where he was directed to write another letter. He said he was then told to wait for 21 days. He kept on visiting the court on various days only to be told to continue to wait whilst the Respondent was availed a copy on 05.08.2019. The Applicant finally managed to secure a copy from the High Court on 21.11.2019 and filed the application on 05.12.2019.

In response, the Respondent told the Court that she received a copy of judgement on 17.09.2019 and appealed at the High Court on 21.10.2019. She stated further that the Applicant was availed with the copies at the High Court on 21.11.2019 and those facts are not the same with what was stated in the Applicant's affidavit. She prayed for the application to be dismissed as the Applicant and his advocate were not serious in filing the appeal on time. In rejoinder the Applicant reiterated the prayer that he be granted extension of time to lodge his appeal.

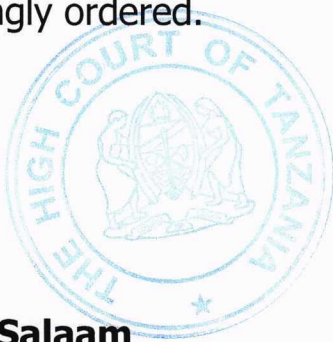
Section 14(1) of the Law of Limitation Act, Cap 89 RE 2002 gives powers to the court to extend time when prescribed time by law has lapsed upon a party showing sufficient or reasonable cause - **Michael Lessan Kweka V John Eliafye** (1997) TLR 152 (CA). A number of authorities have explained the meaning of sufficient or reasonable cause to mean that a party must show the delay was not caused by his dilatory conduct out of

negligence, disinterest of lack of diligence. The courts went further to explain that the sufficient reason must relate to inability to take particular step in time— see the case **Mugo and Another V Wanjiru and Another** (1970) EA 481 cited in the case of **Martha Daniel V Peter Thomas Nko** (1992) TLR 359. Moreover, the applicant must also account or have an explanation for each day of delay - **Al Imran Investment Ltd V Print Park Tanzania Ltd and Another**, Misc. Civil Cause No. 128 of 1997 (unreported).

The Applicant averred at para 6 and 7 of his affidavit that he was availed with the copy of judgement and decree by the High Court on 21.11.2019. This proves the fact that immediately after the respondent was availed copy of judgement and decree and lodged her appeal, the records were sent to High Court which made the follow up by the Applicant to stumble in a difficult situation. In my perusal of the records, I found the letters by the Applicant of 02.08.2019, 05.08.2019 and 28.10.2019 requesting to be availed with copies of judgement and decree for appeal purposes. With those efforts I would not term the Applicant as negligent but rather I see a sufficient reason which relate to the inability of Applicant to take a step within the prescribed time – see the case **Mugo and Another V Wanjiru and Another** (1970) EA 481 cited in the case of **Martha Daniel V Peter**

Thomas Nko (1992) TLR 359. It is on those circumstances this court exercise its judicial discretion to grant the applicant extension of time to lodge his appeal in this court. The Applicant is availed 30 days from the date of being availed with the order of this ruling to present his appeal. Costs shall abide to the final outcome of the appeal.

Accordingly ordered.



Dar Es Salaam

15.07.2020.

A handwritten signature in blue ink, appearing to read "R.A. Ebrahim", is written over the printed name.

R.A. Ebrahim

JUDGE