

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

MISC. CIVIL APPLICATION NO. 666 OF 2019

(Arising from Misc. Civil Application No. 814 of 2018)

FATUMA SAIDI.....APPLICANT

VERSUS

RAMADHANI MOHAMED.....RESPONDENT

RULING

Date of last order: 1/6/2020.

Date of Ruling: 22/07/2020

S.M. KULITA J;

This is an application for an extension of time to file Bill of Costs. The application is made under Order 68 of the Advocates Remuneration Order, 2015 GN. 264 of 2015 and section 14(1) of the Law of Limitation Act, Cap 89 R.E. 2002. The application is accompanied with a chamber summons and the affidavit of the applicant, **FATUMA SAIDI** who seeks for extension of time for the applicant to file a Bill of Costs arising from the decision of Miscellaneous Civil Application No. 814 of 2018 which was

delivered on 13/6/2019. The application was heard by way of written submissions.

The applicant submitted that on 14th June, 2019 she wrote a letter to the Deputy Registrar praying to be supplied with the copies of ruling and order following struck out of the Miscellaneous Civil Application No. 448 of 2018 by this court on the 13th June, 2019.

The applicant also submitted that since the drawn order was a vital document to attach to the application of Bill of Costs for the application to be competent, she could not file it within sixty days as required by law due to the fact that the said copies were not supplied to her within time upon the request which was made immediately after the said ruling being delivered. The applicant submitted that the expiry of sixty days period which is prescribed for the filing of Bill of Costs was on 13th August, 2019, while the copies were supplied to her on 27th October, 2019. Therefore, the court should exclude the period for waiting to be supplied with the copies of the ruling and drawn order. To support her argument the applicant cited the case of **FASTJET AIRLINES LTD V. JOHN MNAKU MHOZYA, Miscellaneous Civil Application No. 210 of 2017, High Court at DSM (Unreported)**.

Furthermore, the applicant submitted that the cause of delay was caused by the court which delayed in supplying her with the said copies, that being the case she cannot be blamed for negligence and that the lapse of forty five days is not inordinate delay. To substantiate the factors to be considered for the application of extension of time to succeed the applicant cited the case of **REPUBLIC V. YONA KAPONDA & 9 OTHERS (1995) TLR 85** in which it was held that sufficient reasons must be established and she has sufficient cause for this court to grant her extension of time.

The applicant concluded her submission by praying to this court to grant the application at hand.

Opposing the applicant's submission the respondent, **RAMADHANI MOHAMED** submitted that the applicant has not given an account of delay of forty five days after receiving the copy of ruling on 27th October, 2019 while she could lodge her application immediately therefore the applicant was not serious to claim the Bill of Costs.

The respondent concluded by praying for dismissal of this application for applicant's failure to account for each day of delay.

Having carefully considered the submissions by both parties, I have this to say with regard to the application at hand;

In her submission the applicant submitted that she requested the copy of the said ruling on the 14th June, 2019 that was immediately after the ruling was delivered, that rebuts the respondent's submission that the applicant was negligent. The applicant has also submitted that attachment of the copy of ruling in the application of the Bill of Costs is among the requirement of the law. The applicant could in no way file a proper application without copies of ruling and/or decree of which according to the paragraph 3 of the affidavit and her written submission were made available to her on the 27th October, 2019. That was after the lapse of sixty days required by Order 4 of the Advocates Remuneration Order, 2015 where in my view that amounts to sufficient cause for the applicant to be granted extension of time. The same view was observed in the case of **SAMUEL JOEL MAKUNDI V. DR. WILBERFORCE EMMANUEL MEENA & ANOTHER, Miscellaneous Civil Application No. 337 of 2017, High Court, Commercial Division at DSM (Unreported).**

I have also gone through the provisions of section 19 of the Law of Limitation Act [Cap 89 RE 2002] which provides;

(1) In computing the period of Limitation for any proceeding, the day from which such period is to be computed shall be excluded.

*(2) In computing the period of limitation prescribed for an appeal, an application for leave to appeal, or an application for review of judgment, the day on which the judgment complained was delivered, and **the period of time requisite for obtaining a copy of decree or order** appealed from or sought to be reviewed, shall be excluded.*

In applying the above cited provision the instant matter the time started reckoning against the applicant on the 27th October, 2019 the date that she had received the copies of ruling and decree. The court's records show that the application was filed on the 12th December, 2019, that is 45 days later which implies the applicant is still in time as the time limit is 60 days.

In the case of REPUBLIC V. YONA KAPONDA & 9 OTHERS (1995) TLR 85 cited by the Applicant it was held;

"in deciding whether or not to allow an application to appeal out of time, the court has to consider whether or not there is "sufficient reasons" not only for the delay, but also

"sufficient reasons" for extending the time during which to entertain the appeal".

As for the matter at hand the reasons for delay have been found reasonable and the fact that there is no dispute on the presence of the ruling for the Misc. Civil Application No. 814 of 2018 which was decided for the applicant and the bill of cost has not yet been lodged, therefore the time should be extended for the said bill of costs to be filed and entertained.

From the foregoing analysis I am satisfied that the applicant has shown sufficient cause for this court to grant extension of time for her to file the bill of costs out of the prescribed time. The application is therefore granted. The applicant is ordered to file the Bill of Costs within 30 days from the date of this ruling.

Each party to bear his/her own costs.



A handwritten signature in blue ink, appearing to be "S.M. Kulita".

S.M. KULITA

JUDGE

22/07/2020