

IN THE HIGH COURT OF TANZANIA

(IRINGA DISTRICT REGISTRY)

AT IRINGA

MISC. CIVIL APPLICATION NO. 39 OF 2018

(In the matter of an application for leave to apply for orders of certiorari and mandamus and prohibition by John T. Mayega)

JOHN T. MAYEGA APPLICANT

VERSUS

THE PERMANENT SECRETARY

PRESIDENT'S OFFICE 1ST RESPONDENT

THE HON. ATTORNEY GENERAL 2ND RESPONDENT

RULING

KENTE, J

This is an application to set aside a dismissal order which was made by my sister Hon. Shangali, J (retired) in Misc. Civil Application No. 21 of 2014 following the present applicant's failure to comply with an order to file written submissions (dated 30th June 2016) after the court had directed for the said application to be argued in that manner.

Briefly stated the factual background giving rise to the present applicant is as follows. The applicant who was then represented by Ms. Prisca Mtanga learned advocate had applied to this court seeking for leave to apply for the prerogative orders of certiorari, mandamus and prohibition

against the present respondents. As stated before, on 30th June 2016, this court (per Kihwelo, J) upon consultation with both Ms. Mtanga and Mr. Chakira who were respectively counsel for the applicant and respondent, made an order for the said application to be argued by way of written legal arguments and the applicant was given 21 days within which he was to file his submissions in-chief. For the sake of exactitude, the applicant was supposed to file his submissions not later than 14th July, 2016. The respondents were to file their reply submissions on or before 28th July 2016. If the applicant had any rejoinder to make, he could file it not later than 5th August 2016. Even though the applicant could not set the ball rolling as nothing had been filed until 27th September 2016 when the said application was placed before Hon. Shangali, J (now retired) with a view to ascertaining if the parties had duly complied with the filing schedule. It is on that day that the applicant informed the court that he did not know if his advocate (Ms. Mtanga) had filed the submissions and that as he had not consulted her, he had nothing to say. On 25th November 2016, the Honourable trial Judge went on dismissing the said application on account of the applicant's and his advocate's failure to prosecute the application. Undaunted however, the applicant lodged the present application seeking for restoration of the dismissed application.

with that said, I find that the applicant has not furnished any sufficient or reasonable cause to account for his and his advocate's failure to file written legal arguments to prosecute his dismissed application. I therefore dismiss the present application with costs.

It is so ordered.

DATED at IRINGA this 17th day of September, 2020.



P. M. Kente
P. M. KENTE
JUDGE