

THE UNITED REPUBLIC OF TANZANIA
HIGH COURT LABOUR DIVISION SHINYANGA
AT SHINYANGA

LABOUR APPLICATION NO.28 OF 2019

THABITHA MUNG'AWI.....APPLICANT

VERSUS

PANGEA MINERALS LIMITED.....RESPONDENT

RULING

Last order: 13.110.2020

Date of Ruling: 30.10.2020

MKWIZU J.:

The applicant, TABITHA MUNG'AWI filed the instant application seeking an order for extension of time within which to file an appeal against the decision of the High Court – Labour Revision No. 73 of 2015 dated 30.6.2015. The application was made under section 11 (1) of the Appellate jurisdiction Act and section 21 (1) (2) of the Law of Limitation.

Applicant is appearing in person, without legal representation. The respondent Pangea Minerals Limited had the services of Mr. Joseph Nyerembe, learned advocate.

Submitting in support of the application, applicant stated that, her application is for extension of time to file appeal to the Court of Appeal. Explaining reasons for the delay, applicant said, she timely filed an appeal to the Court of Appeal which was struck out for being incompetent. She stated further that her intention is to go back to the court of Appeal after she had rectified the pointed-out irregularities in her appeal No 106 of 2015 but because she is out of time, she had first to come to this court with the present application.

Responding to the applicant's submissions, Respondent's counsel queried the time spent by the applicant from when her appeal was struck out by the Court of Appeal to the time when she filed the present application. In essence, Mr. Joseph was saying that the applicant did not account for each day of the delay.

In her short rejoinder applicant said, after the striking out order by the Court of Appeal, she went on to look for a lawyer who drafted the documents for

filing the present application. She finally requested the court to allow her application.

The position of the law is settled that, in an application for extension of time, applicant must account for each day of the delay. In this case, this court (Mipawa J) gave its decision on 30/6/2015, there from, applicant filed an appeal to the Court of Appeal, which was struck out on 11th February, 2018. The records reveals that applicant kept silent until 3/4/2019 when she wrote to the court requesting for a copy of the drawn order which she was availed on 15/4/2019. No action was taken again until 3rd June, 2019 when the applicant filed the present application.

The issue for this court's consideration is whether the applicant has given sufficient cause for the delay including accounting for each day of the delay. Reading the applicant's affidavit, par 4 and 5, she averred that after the striking out of her appeal, she on 3/4/2019 wrote to the court requesting for a copy of the drawn order which she was availed on 15/4/2019. and in her rejoinder submission, she added that after the order striking out his appeal, she had to look for a lawyer to prepare the documents for filing in court.

In the case of John **Mosses and Three others Vs. The Republic**, Criminal Appeal No. 145 of 2006, Court of appeal held that:-

*"... it is now settled law that in application for extension of time to do an act required by law, **all that is expected of the applicant is to show that he was prevented by sufficient or reasonable or good cause** and that the **delay was not caused or contributed by dilatory conduct or lack of diligence on his part.**" (Emphasis mine).*

My evaluation of both, the affidavit and applicant's oral submissions are silent on where the applicant was from 11/2/2018 when the Court of Appeal struck out Appeal No 106 of 2015 to 3/4/2019 when the applicant requested for a copy of the drawn order. Again, there is no explanation given as to where the applicant was from 15/4/2019 when she was availed with the copy of the drawn order to 3/6/2019 when this application was filed.

Even if this court is to believe that from 3/4/2019 applicant started to trace

the documents for the filing of the appeal, looking for the advocate to help her in preparing documents for filling, still, the application lacks explanation as to what was befalling her from 11/2/2018 to 3/4/2019, almost 14 months' time. The court has said time and again that in an application for extension of time applicant must account for each day of the delay. See the case of Sebastian **Ndaula Vs Grace Rwamafa (legal representative of Joshua Rwamafa)**, Civil Application No. 4 of 2014 and **TAMICO (KMCI) on behalf of Enoch Joseph and 113 Others Vs Bulyanhulu Gold Mines Limited**, Civil Application No. 361/2017.

In this application, Applicant has failed to account for days of the delay and therefore there is no way in which I can exercise my discretion in favour of the applicant. To this end, the application for extension of time is dismissed with no order as to costs.

Order accordingly.

DATED at SHINYANGA this 30th day of October, 2020.

