

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
[IN THE DISTRICT REGISTRY]
AT ARUSHA

MISC. LABOUR APPLICATION NO. 04 OF 2019

(C/F CMA Application No. CMA/ARS/MED/472/2018)

MOHAMEDI IDRISA RAMADHANI.....1ST APPLICANT

ANNA HAMISI KIONDO.....2ND APPLICANT

Versus

CHUO CHA UFUNDI ARUSHA.....RESPONDENT

RULING

17/09/2020 & 05/11/2020

MZUNA, J.:

Mohamed Idrisa Ramadhani and **Anna Hamisi Kiondo**, the applicants herein, prays for this court to enlarge time within which to file their revision against the ruling issued by Commission for Mediation and Arbitration (CMA) in favour of **Chuo Cha Ufundi Arusha**, the respondent.

The main issue is whether there is sufficient reason for the court to grant extension of time? OR, has the applicants explained reasons for the delay?

The applicants speaking through the first respondent repeated what they averred in their affidavit paragraph 3 and 4. The grounds for extension of time as stated in their affidavit is that their representative from Legal and

Human Rights Centre was away on leave. That, the applicants are very old and one of them was sick. They are contesting the failure by the CMA to deny them right to extend time. They insisted that they were unfairly terminated.

In reply, Mr. Benard Peter, learned State Attorney, who appeared for the respondent vehemently resisted the application on the ground that what they have advanced is only an afterthought and mere fabricated stories because even the chamber summons and affidavit has been drafted by the applicants. That there is no proof that they received such assistance from Legal and Human Rights center. Further that they could have given notice of absence if the Officer was on vacation. It was his view that even assuming one party was sick, still another party could have opened the case. That, in the absence of proof that indeed he attended treatment and that they stand a likelihood of success, the application should be dismissed.

In rejoinder, the applicants insisted that the application should be allowed.

This court is aware that in dealing with this application whether or not to grant extension of time is the discretion of the court, which however, must

be exercised judicially with caution and rules of logic. It was held in the case of **Livingstone Silay Haru v. Coliifred Temu** [2002] TLR 268, that:-

"It is discretion on the part of the court to grant the extension of time depending on sufficient reason being given to explain the delay"

Reading from the record, the impugned ruling was delivered on 30th November, 2018 whereas this application was filed on 29th January, 2019. The applicants' joint affidavit does not disclose what happened in between the date of delivery of the impugned ruling, 30th November, 2018 and the date the application was filed in court, 29th January, 2019. There is an unexplained delay of about 60 days which is a very inordinate delay.

In the case of **Osward Masatu Mwizarubi v. Tanzania Fish Processing Ltd**, Civil Application No. 13 of 2010 it was held that:-

*"What constitutes good cause cannot be laid down by any hard and fast rules. The term good cause is a relative one and **is dependent upon the party seeking extension of time to provide relevant material in order to move the court to exercise its discretion.**"* [Emphasis added]

Has the applicants advanced reasons for the delay, the answer is definitely no, for the following reasons.

First, a party has to account even for a single day delay. The Court of Appeal insisted in the case of **Bushiri Hassan v. Latifa Mashayo**, Civil Application No. 3 of 2007 cited in **The Bishop Roman Catholic Diocese of Tanga v. Casmir Richard Shemkai**, Civil Application No. 507/12 of 2017, (unreported) at page 7:- *"...that even a single day has to be accounted for."*

Second, sickness would constitute sufficient reason for extension of time where, I would suppose, the applicant acted diligently after recovery and or produce record of sickness from the Doctor. That apart, even one party could have opened the case if the other was sick as well submitted by the learned State Attorney. That was not done.

Worse still, and this forms my third reason, the applicants appeared and filed the documents without assistance of lawyers from the Legal and Human Rights Center, as opposed to their contention that their absence while on leave, was the cause for the delay.

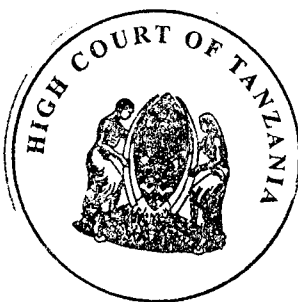
The last and equally important point is that this case must be looked with a seriousness it deserves as reading the impugned ruling the dispute they are challenging based on the CMA form No 1 is of way back 1995 and


1996. The applicants admit, it is almost 20 years save that all along their claims were tabled before the proper Office after the order of the Labour Officer. The Court of Appeal in the case of **Royal Insurance Tanzania Limited v. Kiwengwa Strand Hotel Limited**, Civil Application No. 116 of 2008, cited in **Sebastian Ndaula v. Grace Rwamafa** (Legal Representative of Joshwa Rwamafa), Civil Application No. 4 of 2014, (unreported) held that:-

"It is trite law that an application before the Court must satisfy the Court that since becoming aware of the fact that he is out of time, act very expeditiously..."

The applicants have failed to account for the 60 days delay. In that respect they have not demonstrated sufficient reasons for the court to exercise its discretion in enlarging time within which to file application for revision as the advanced reasons of sickness and lack of representation are merely an afterthought and unsupported.

Application stands dismissed with no orders as to costs.




M. G. MZUNA,
JUDGE.
05. 11. 2020