

**IN THE HIGH COURT OF TANZANIA**  
**AT DAR ES SALAAM**  
**MISC. CIVIL APPLICATION NO. 531/2018**  
**SALUM RAMADHANI POSSA**  
***VERSUS***  
**INTERCHICK CO. LTD**

**RULING**

The applicant above mentioned is seeking for extension of time within which to file a cross objection to the appeal against Civil Appeal No. 133/2018 of the High Court of Tanzania.

In his affidavit, the applicant deposed that after delivery of judgment of the trial court on 14.3.2018 in Civil Case No. 14/2018, he filed a notice of intention to appeal and requested for copies of proceedings, judgment and decree on 26/03/2018. That, in the mid of July 2018 he was seriously sick, as per the patient report annexure 'B' to the affidavit.

In his written submission in chief, the applicant reiterated the same ground of sickness. Mr. Beatus Kiwale learned Counsel for respondent opposed the application on the ground that the applicant did not account for each day of delay.

As I have said above, that the applicant had intimated his intention to appeal by a notice filed on 26/03/2018, being after elapse of twelve days counting from when the trial court decision was delivered on 14/03/2018, and also requested for copies of judgment, decree and proceedings. The said notice was served to the respondents Counsel on 26/03/2018. The applicant pleaded to had delayed due to ailment from mid July 2018.

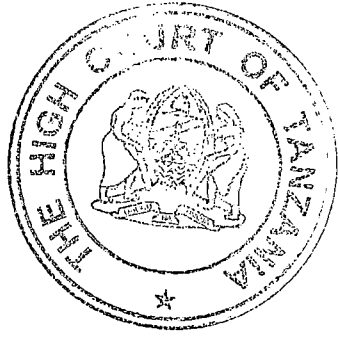
However, according to order XXXIX rule 22(1) Civil Procedure Code, Cap 33 R.E. 2019, a cross-objection to the decree ought to be filed within one month from the date of service of notice of hearing of an appeal subject for cross-objection. For appreciation, I reproduce the said proviso,

*"Any respondent, though he may not have appealed from any part of the decree, may not only support the decree on any of the grounds decided against him in the court below, but take any cross-objection to the decree which he could have taken by way of appeal, **provided he has filed such objection in the Court within one month from the date of service on him or his advocate of notice of the day fixed for hearing the appeal, or within such further time as the Court may see fit to allow**"*

bold added

Unfortunate court record is silent as to when the applicant was served with a notice of hearing in respect of Civil Appeal No. 133 of 2018. The court records show that the applicant herein appeared in the above mentioned appeal for the first time on 11.9.2018. And as much this application was presented for filing on 10.9.2018, the applicant is given a benefit of doubt. In other words, when the applicant was filing this application is presumed to have been within time. As such this application was marred by superfluosity. In view of that, the applicant deserves an extension of time. The applicant application for extension of time is granted. The said memorandum of cross objection to the appeal to be filed within 14 days, counting from the date of this order.

Each party to shoulder its costs.



**E. B. Luvanda**  
**Judge**  
**12/08/2020**

A large, stylized handwritten signature in black ink, which appears to be "E. B. Luvanda", is written over the typed name and date.