

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

MISCELLANEOUS CIVIL APPLICATION NO 387 OF 2021

**(Arising From Consent Settlement Order of the High Court of Tanzania at
Dar Es Salaam dated 30th September, 2020 in Civil Case No. 75 of 2020
Madeha J, as a Mediator)**

BETWEEN

JMC (T) LIMITED.....APPLICANT

Versus

AFRICARRIERS LIMITED.....RESPONDENT

RULING

MRUMA, J.

This is an application for extension of time within which the Applicant JMC Couriers (T) Ltd can institute application for Review of the Judgment and decree resulting from a consent settlement order before the Honourable lady Justice (Mediator Judge) Madeha J, passed on 30 September 2020 in Civil Case No 75 of 2020.

This application has been brought under the provisions of section 14 of the Law of Limitation Act [Cap 89 R.E. 2019], and as is the practice the application is accompanied by an affidavit of the Applicant. The affidavit has been sworn by Mr. Msafiri Kitemanga who is the Principal Officer of

the applicant's company. In that oath, the applicants have explained why they are requesting an extension of time.

The Respondent AFRICARRIERS Limited has strongly opposed this application. In their counter affidavit, affirmed by Mr. Mustafa Rashid, the Financial Director of the company, the Respondent says that the Applicant has not shown any sufficient and/or good cause to show why they were late in bringing the application for review within the time prescribed by law.

As I explained earlier, this application has been brought under section 14 of the Law of Limitation Act. The section states as follows:-

"Notwithstanding the provisions of this Act, the Court may, for reasonable or sufficient cause, extend the period of limitation for filing appeals or an application other than an application for a decree, and an application for such extension may be made either before or after the period of limitation prescribed for such appeal or application".

From the enabling law cited above it is clear that in order for the court to use its discretion to extend time to file the application for review, the Applicant must show reasonable or sufficient cause that delayed him to bring his application within the time.

Now the only question before me in this application is whether the Applicant has shown any good or sufficient cause which prevented him from instituting his application within the prescribed time. But before checking whether there is a good cause or not, we have to know how much time is set by law for one to file an application for review of a judgment or decree. Item 3 of the Schedule to the Law of Limitation Act,

states that an application for the review of orders or judgments should be brought to court within thirty (30) days after the judgment or order is passed. In the present matter, the Consent Settlement Decree in Civil Case No 75 of 2020 was passed by Honourable Mediator/Judge (Madeha, J) on the 30th September 2020 and this application was filed in this Court on the 11th September 2021, which is 315 days from the date the impugned judgment was handed down.

In his affidavit which constitutes his evidence, the Applicant spent big chunk of his time explaining the genesis of the dispute between the parties and in fact he used all the paragraphs of his affidavit to explain the background of the dispute and the investigations which his company carried out and he finally complained that the Respondent did not have good intention to have the matter conclusively resolved. There is not a single paragraph in which he had attempted to show why he did not file his application within thirty days as required by law. In the Case of **WEMBELE MTUMWA SHAHAME VS MOHAMED HAMISI CIVIL APPLICATION NO 3 OF 2007** the Court of Appeal held that apart from showing the reasonable or sufficient cause why the Applicant could not file his application within the time limit prescribed by the law, the applicant must also explain every day of delay. In this application both of these requirements were not met. The Applicant did neither show any sufficient cause for delay nor did he account for every day of delay.

Secondly a careful perusal of the Applicant's affidavit, suggests that he is raising the argument of there being an illegality in the consent settlement decree which he wants to be reviewed. However, as evidenced by the records it would appear that illegality was raised after the Applicant had failed to satisfy the decree by paying the decreed

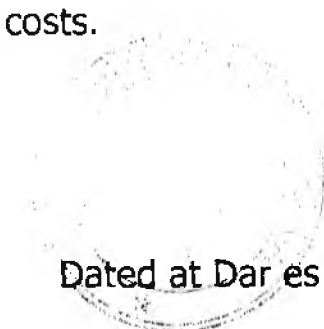
amount and immediately after the decree holder had applied for execution of the said decree. To me this imputes an afterthought and a bid to delay the course of justice.

Since the applicant has failed to show reasonable or sufficient cause for not filing his application within 30 days after the consent settlement decree was passed and because he did not account for every day of delay as required by law, this Court finds that the Applicant has failed to convince it to extend the time. Therefore, his application is dismissed with costs.



A.R. Mruma,

Judge



Dated at Dar es Salaam this 8th day of September, 2020.