

**IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA  
IN THE DISTRICT REGISTRY OF SHINYANGA  
AT SHINYANGA**

**MISC. CIVIL APPLICATION No. 30 of 2017**

**JIHANGO SHULI.....APPLICANT**

**Versus**

**MBAGA HUBILA.....RESPONDENT**

*Date of Last Order: 26/02/2020*

*Date of Ruling: 08/05/2020*

**RULING**

**C. P. MKEHA, J**

On 18/08/2015, the applicant's appeal to the High Court was struck out with leave to refile the same subject of limitation. It was before Tabora District Registry of the High Court. The struck-out appeal sought to challenge the decision of the District Court of Shinyanga, rendered on 17/08/2012.

After the applicant's appeal had been struck out for want of prosecution, the applicant took no further step until on the 30<sup>th</sup> day of October, 2015 when the applicant applied for setting aside of the court's order dated 18/08/2015. This particular endeavor was not pursued to its finality. On 04<sup>th</sup> October,

2017 the applicant prayed to withdraw his own application with leave of refiling the same. This court, (Kibella, J.) as he then was, granted the applicant's prayer subject to the law of limitation.

Then on 07/11/2017 the applicant brought the present application seeking extension of time within which to refile an appeal against the decision earlier referred to, dated 17/08/2012 by the District Court of Shinyanga.

During hearing of the present application, Mr. Kadalaja learned advocate represented the applicant. On the other hand, the respondent appeared in person.

Apart from adopting the contents of the affidavit supporting the application, the learned advocate was unable to explain more on the reason for delay. Reading from the applicant's affidavit, it would appear that the main reason for delay was the filling of a misconceived application (Misc. Civil Application No.2 of 2015), later on withdrawn on 04/10/2017.

The learned advocate for the applicant did not tell the court as to why he had to wait until the 30<sup>th</sup> October, 2015 to take a step aiming at rescuing his appeal that had been struck out way back 18/08/2015. Neither did the learned advocate attempt to tell the court why the applicant took no step as


from 04/10/2017 when he withdrawn Misc. Civil Application No.2 of 2015 to 07/11/2017 when the present application was filed. In other words, a delay of more than 100 days was not accounted for.

The respondent's reply was simple and straight forward. That, the application deserves being dismissed.

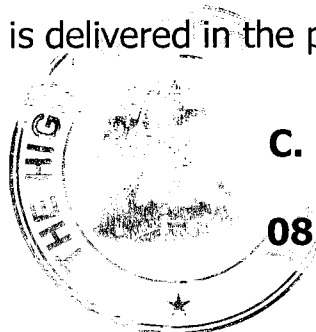
As demonstrated hereinabove the applicant's advocate took no efforts to account for a delay of more than 100 days. The Court of Appeal has always taken a strict view in cases of this nature. That, delay of even a single day has to be accounted for **See: BUSHIRI HASSAN VS. LATIFA LUKIO MASHAYO, CIVIL APPLICATION NO.03 OF 2007, (CAT) AT ARUSHA.**

For failure of the applicant to account for a delay of more than 100 days, the present application must fail. The same is dismissed for want of merit.

Dated at **SHINYANGA** this **08<sup>th</sup> day of May, 2020.**

  
**C. P. MKEHA**  
**JUDGE**  
**08/05/2020**

**Court:** Ruling is delivered in the presence of the parties.



  
**C. P. MKEHA**  
**JUDGE**  
**08/05/2020**