

**IN THE HIGH COURT OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)
AT DAR ES SALAAM
MISC CIVIL APPLICATION NO. 93 OF 2021**

SAID SELEMANI APPLICANT

Versus

FATUMA MOHAMED SALIM RESPONDENT

Date of last Order: 05/05/2021

Date of Ruling: 28/05/2021

R U L I N G

MGONYA, J.

This is an Application for extension of time within which the Applicant can lodge Matrimonial Appeal out of time after being aggrieved by the decision of the **PC Matrimonial Appeal No. 50 of 2020** before the District Court of Kinondoni. The Chamber Summons is supported by an Affidavit affirmed by **Said Selemani** the applicant herein.

Having gone carefully through the pleadings being the Affidavit in support of the Application, I have noted that the Respondent refused service hence the matter was ordered to be heard *Exparte* against her. This is after I have been served with the "Afisa Mtendaji Kata" confirmation which was also endorsed with the Local Government's stamp. After I have been satisfied with the said information, and since the matter have been already ordered to proceed *Exparte*, I ordered the Applicant to file his respective written submission in support of his Application the order was adhered to hence this Ruling.

In the Applicant's written submission, the main reason of delay has been stated to be lack of Applicant's proper guidance towards Appeal procedures as he was initially handling the matter by himself.

It is a trite law that in order for this court to grant the Application for extension of time to file such an Application, one must establish that there is/are sufficient reason(s) for the Court to exercise its discretionary power to extend time. This is position of the law was also reiterated in the case of ***OSWARD MASATU MWIZARUBI VS TANZANIA FISH PROCESSING LTD, Civil Application No. 13 of 2010, CAT*** where 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 the relevant material in order to move the Court to exercise its discretion."

However, what amounts to "sufficient cause" has not been defined. From decided cases a number of factors have to be taken into account, including whether or not the Application has been brought promptly, the absence of any or valid explanation for the delay, and lack of diligence on the part of the Applicant to mention just a few.

I am aware that it is a trite law that negligence, laxity, financial constrain, and ignorance do not constitute sufficient

reason for the Court to grant such an Application. See the case of **ALI VUAI ALI AND ANOTHER VS. SUED MZEE SUED Civil Application No. 1 of 2006** and **PAUL MARTIN VS BERTHA ANDERSON Civil Application No. 7 of 2005**. However, under the circumstances, as it is at the court's discretion to grant or deny the application for extension of time, reading the contents of the Applicant's Affidavit, and the oral submission by the Applicant's Counsel, I have seen it just to grant the prayer sought as I understand that appeal too is one of the Constitutional rights.

In the event therefore, **I allow the Application by proceeding to grant extension of time to the Applicant to file his intended appeal to this honorable court.**

The said Appeal is to be filed within **fourteen days** from the date of receiving the copy of this Ruling.

I make no order as to costs.

It is so ordered.




L. E. MGONYA
JUDGE
28/05/2021

Court: Ruling delivered in chamber in the presence of the Applicant in person and Ms. Msuya RMA this 28th day of May, 2021.




L. E. MGONYA
JUDGE
28/05/2021