

IN THE HIGH COURT OF TANZANIA

MWANZA DISTRICT REGISTRY

AT MWANZA

MISCELLANEOUS CIVIL APPLICATION NO. 123 OF 2020

(Originating from HC. Civil Case No. 5/2004)

PL TANZANIA MULTIPURPOSE

INVESTMENT GROUP APPLICANT

VERSUS

KWIMBA DISTRICT

COUNCIL & ANOTHERRESPONDENTS

RULING

20 & 20/04/2021

RUMANYIKA, J.:

When, under Section 11(1) of the Appellate Jurisdiction Act Cap 141 RE. 2019, with respect to judgment and decree of this court dated 20/6/2016, but following the court's order of 29/9/2020 (Ismail, J) on a time bar ground dismissing the subsequent application for leave leading to filing of the instant application for extension of time within which the seemingly militant PL Tanzania Multipurpose Investment Group (the applicant) Now to all over again lodge an application for leave it was, by way of audio conferencing called on this 20th April, 2021 for hearing, and, like Mr. A. Nasimire learned counsel for the applicant, Mr. S. Ndaro learned solicitor

for Kwimba District council and Kwimba District Co - Operative Officer (the 1st and 2nd respondents) respectively was ready for hearing, I invited the learned attorneys to address the court on the tenability of the application.


With moderate zeal and vigor having had fended it, nevertheless Mr. A. Nasimire learned counsel urged me to appropriately determine the application. That is it.

On his part, Mr. Ndaro learned Solicitor drew my attention to the coincident but otherwise competency - based preliminary point of objection which mainly on the merit part of it I overruled, according to records on 16/3/2021.

The issue is whether the application is tenable at law. Like I said in the said ruling, it is trite law that once a matter is dismissed for being time barred nothing remains unless one appealed or against it he applied for review, the aggrieved a party cannot come back to the same court applying for extension of time in our case to reapply for leave to appeal. It is very unfortunate that, quietly though, Mr. Nasimire conceded to the time bar p.o (cases of **East African Development Bank v. Blueline Enterprises Ltd**, Civil Appeal No. 101 of 2009 and **Hashim Madongo & 2 Others v. Minister for**


Industries and Trade & 2 Others, Civil Appeal No. 27 of 2009 (CA), both unreported) much as it is very unfortunate that my decision on the p.o it was made per **incuriam** it is therefore reviewed as such. It follows therefore, but with greatest respect that the out of place application for extension of time is dismissed with costs. It is so ordered.

Right of appeal explained.



S. M. RUMANYIKA
JUDGE
20/04/2021

The ruling is delivered under my hand and seal of the court in chambers this 20/04/2021 in the absence of the parties.



S. M. RUMANYIKA
JUDGE
20/04/2021