

**IN THE HIGH COURT OF TANZANIA  
(DAR ES SALAAM DISTRICT REGISTRY)**

**AT DAR ES SALAAM**

**MISC. CIVIL APPLICATION NO. 563 OF 2020**

**MICHAEL PAUL KOMU..... APPLICANT**

***VERSUS***

**MAGRETH PAUL KOMU ..... 1<sup>ST</sup> RESPONDENT**

**LUCY PAUL KOMU ..... 2<sup>ND</sup> RESPONDENT**

*Date of last order: 08/04/2021*

*Date of Ruling: 21/05/2021*

**R U L I N G**

**MGONYA, J.**

Before this Court is an application for extension of time sought by the Applicant so as to appeal against the ruling in **Civil Application No. 171 of 2018** between the parties named above. This Application is taken in the instance of **ELA ADVOCATES** and is supported by affidavit of **SYLVESTER MGONJA** an Advocate for the Applicant.

The matter before this Honorable Court was heard by way of written submission. Whereby the Learned Counsel for the parties filed their respective submissions before this Court as scheduled. I appreciate the efforts of the Learned Counsel for their exhaustive well researched submission of which I do not

intend to reproduce but assure that both will be considered in determination of this Application.

Having gone through the Affidavit and the submission I have noted that the Appeal intended is upon **Civil Application No. 171 of 2018** between **Magreth Paul Komu and Lucy Paul Komu as Applicants and Michael Paul Komu as Respondent**. The decision of the said Civil Application was decided on **25/04/2019** in which the Application was granted.

Under **paragraph 1 - 11** of the Applicants Affidavit the Applicant states on the efforts done to have secured the copies of the said decision and that on the **11/10/2019** and that by that time to appeal had already lapsed. And that it was not the Applicant's fault to have delayed in filing the appeal in time. The Applicant prays that the prayers sought in the Application be granted.

The Respondents in replying the Applicant's Application at large have disputed the Application and seek for the Courts order in dismissing the said Application since that Applicant has not stated before this Court of the whereabouts or actions taken since the obtaining of the records on **11/10/2019** till the date when this Application was filed. Hence from the submission by the Respondent it is that the Applicant has no

sufficient of the delay and hence stands no chance to the Application being granted.

Having gone and considered carefully the submissions from the Counsel for the Applicant and the Respondent and also gone through the documents and cited cases before this Court, in determination of this application let's be guided by the case of ***LYAMUYA CONSTRUCTION COMPANY LIMITED VS. BOARD OF REGISTERED TRUSTEES OF YOUNG WOMEN ASSOCIATION OF TANZANIA, Civil Application No. 2 of 2010 (unreported)*** of which guidelines were formulated to set what amounts to good cause. In this case it was held that first, the Applicant must account for all days of delay. Second the delay should be reasonable. Third the Applicant must show diligence and not apathy, negligence or sloppiness in the prosecution of the action that he intends to take and fourth, if the Court feels that there are other reasons, such as the existence of point of law of sufficient importance, such as illegality of the decision sought to be challenged.

In this instant application the Applicant is seeking for an extension of time to file an appeal after being availed with the necessary documents on the **11/10/2019** and filing this application on the **03/11/2020** that is after one year and some days. It is in the Applicants application and submission that the reason for such delay is silent and has not been stated

anywhere in the Application nor submission. Hence lack of stating such reason of delay this Court's hands are tied and **this application is hereby dismissed.**

Each party to bear its own costs.

It is so ordered.

Right of Appeal Explained.



**L. E. MGONYA**  
**JUDGE**  
**21/05/2021**

**Court:** Ruling delivered in chamber in the presence of Ms. Jackline Manyalla, Advocate for the Applicant, Mr. Maros Gabriel, Advocate for the 1<sup>st</sup> and 2<sup>nd</sup> Respondent and Ms. Msuya, RMA this 21<sup>st</sup> day of May, 2021.



**L. E. MGONYA**  
**JUDGE**  
**21/05/2021**