

Before this Court, the learned advocate, Mr. Derick Zephryne prayed to dispose of the application by way of written submission; the prayer was granted without any objection. In the oral submission, the counsel for the applicant alleged illegality as the major reason to move this Court to enlarge time. The counsel took time to describe the kind of illegality apparent on the record of the lower tribunal and urged the Court to allow the application so that the appellate Court may be positioned to correct such an irregularity.

In response, the counsel for the respondent objected the application on the reason that the initial application was withdrawn but no leave was granted to re-file the same. The counsel further argued that the applicant failed to account for each day of delay as required by the law. To cement her argument, she cited the case of **Daudi Haga v. Jenitha Abdon Machafu, Civil Reference No. 1 of 2000**, Court of Appeal at Mwanza (unreported). The counsel for the respondent invited this Court to dismiss the application.

When rejoining, the counsel for the applicant insisted that the application bears sufficient reasons for extension of time and should, therefore, be allowed.

In determining the instant application, the major point is whether an allegation of illegality is a sufficient cause to warrant this court to extend time. It is already a settled principle of the law that illegality is a good reason or sufficient cause for extension of time. See, the cases of **VIP Engineering (supra); National Insurance Corporation of (T) LTD v. Shengena Ltd, Civil Application No. 63 of 2011, CAT at Dar es Salaam (unreported) Principle Secretary Ministry of Defence and National Service v. Devran Valambia [1992] TLR 185; Veronica Fubile v. National Insurance Corporation and 2 others Civil Application No. 168 of 2002.**

In the case of VIP Engineering & Marketing Limited v. Citibank (T) Ltd, Consolidated Civil Reference No. 6,7 and 8 of 2006 (unreported), the Court of Appeal of Tanzania observed that:

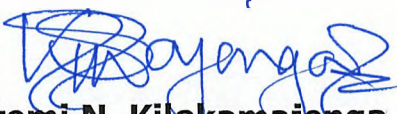
It is, therefore, settled law that a claim of illegality of the challenged decision constitutes sufficient reason for extension of time...regardless of whether or not a reasonable explanation has been given by the applicant under the rule to account for the delay.'

Therefore, denying the extension of time where illegality exists is equally as consenting to the illegality to remain in the records of the Court. Based on the above reasons; I have no better reason to depart from the above established

law. I hereby allow the application. The applicant should file the memorandum of appeal within 30 days from the date of this order. No order as to costs. It is so ordered.

DATED at **BUKOBA** this 18th day of June, 2021.




Ntemi N. Kilekamajenga.
JUDGE
18/06/2021

Court:

Ruling delivered this 18th June 2021 in the presence of the counsel for the applicant, Mr. E. Bengesi (Advocate) and the counsel for the respondent, Mr. Derick Zephryne (Advocate). The respondent was present while the applicant was absent.




Ntemi N. Kilekamajenga.
JUDGE
18/06/2021

