

**IN THE HIGH COURT OF TANZANIA**

**(SONGEA DISTRICT REGISTRY)**

**AT SONGEA**

**MISC. CIVIL APPLICATION NO. 15 OF 2020**

*(Originated from Probate and Administration Cause No. 2 of 2020 of the District*

*Court of Mbinga at Mbinga)*

**LEOCADIA SIXMUND MBELE..... APPLICANT**

**VERSUS**

**JUDITH SIXMUND MBELE..... RESPONDENT**

*Date of ruling 10/06/2021*

**RULING:**

**I. ARUFANI, J.**

The applicant file I this court an application under section 14 (1) of the Law of Limitation Act, Cap 89 R.E 2019 seeking for extension of time to file an appeal in this court out of time prescribed by the law to challenge the decision of Mbinga District Court delivered in Probate and Administration Cause No. 2 of 2020.

As deposed at paragraph 5 of the affidavit of the applicant, the applicant filed an appeal in this court which was Civil Appeal No. 5 of 2020 but on 24<sup>th</sup> September, 2020 the appeal was struck out after being found it had not been accompanied by a copy of the decree of the trial court. After the appeal being struck out the applicant filed the instant application

in this court seeking for leave of the court to file her appeal in the court out of time. The application was resisted by the respondent who file in the court a counter affidavit to that effect.

When the application came for hearing today 10<sup>th</sup> June, 2021 the counsel for the applicant told the court they have already been issued with the decree of the matter by the trial court and said the decree was supplied to them on 23<sup>rd</sup> April, 2021. Following the said information the counsel for the respondent told the court they were resisting the application as they saw the application is abusing court process because when the application was filed in the court the applicant had not been supplied with the copy of the decree by the trial court. The counsel for the respondent told the court that, as the applicant has already been supplied with the copy of the decree they have no objection for the applicant to be granted extension of time to file the appeal in the court out of time.

After considering what was said to the court by the counsel for the parties and after going through the provision of section 14 (1) of the law of Limitation Act upon which the application is made I have found there is no justifiable reason for the court to deny to grant the applicant leave to file in the court an appeal out of time prescribed by the law.



The court has arrived to the above finding after seeing the obstacle which caused the applicant to fail to appeal within the time was decree which was not supplied to them within the time and as stated to the court today by the counsel for the applicant, the applicant has already been supplied with the said copy of the decree by the trial court. Under that circumstances the application of the applicant is hereby granted and the applicant is given fourteen (14) days from today to lodge in the court the appeal she intend to file in this court. No order as to costs. It is so ordered.



*Jeep*  
**I. ARUFANI**

**JUDGE**

**10/06/2021**

**Court:**

The ruling is delivered today 10<sup>th</sup> day of June, 2021 in the presence of both parties in person. The ruling has also been delivered in the presence of Mr. Gaudence Ndomba, learned advocate for the applicant and in the presence of Mr. Zuberi Maulidi, learned advocate for the respondent and right to appeal to the Court of Appeal is fully explained.



*Jeep*  
**I. ARUFANI**

**JUDGE**

**10/06/202**