

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

**AT DAR ES SALAAM**

**MISCL. CIVIL APPLICATION NO. 229 OF 2020**

**ZATIA SALEHE ..... APPLICANT**

***VERSUS***

**SAID SALUM RAMADHANI ..... RESPONDENT**

*Date of last Order: 15/4/2021*

*Date of Ruling: 11/6/2021*

**R U L I N G**

**MGONYA, J.**

The Applicant, **ZATIA SALEHE** filed a Chamber Summons under section 14 (1) of the Law of Limitation Act, Cap. 89 [R. E. 2002] praying for the following orders:

- i. That, this Honorable Court may be pleased to extend time for the Applicant to file Revision against the decision of the Kinondoni District in Probate Appeal No. 28 of 2017 delivered on 18/09/2018 before Hon. Lihamwike (RM) out of statutory time;*
- ii. Cost of this application; and*
- iii. Any other order(s) or relief(s) this Honorable Court deem fit and just to grant.*

This application has been taken out at the instance of the Applicant and is supported by the affidavit affirmed by the Applicant **ZATIA SALEHE** the Applicant herein.

The Application was ordered to be disposed by way of written submissions. Submissions are in place hence this Ruling.

As this is an application for extension of time for the Applicant to file revision against the decision of the Kinondoni District in Probate **Appeal No. 28 of 2017**, the Applicant prays the extension be granted as prayed for the reasons pleaded and submitted before the court. On the other hand, the Applicant's application encountered strong opposition from the Respondent stating that the Application is without merits.

As I have gone through the parties' written submissions and it is from there, I don't intend to reproduce their respective submissions and in alternative, I have decided to straight determine the application at hand.

At this juncture, I have to inform the parties that, the Application for extension of time is not automatic, it is rather discretionary and mostly, there has to be sufficient reason for the court to be convinced to grant the prayer sought. This was held in a case of **BENEDICT MUMELLO VS. BANK OF TANZANIA, Civil Appeal No. 12 of 2012**, where the Court held *inter alia* that:

***"It is trite law that an Application for extension of time is entirely in the discretion of the court to grant or refuse it, and that extension of time may only be granted where it has been sufficiently established that the delay was with sufficient cause."***

It is in the court's record that the Appellant under **paragraph 16** of her Affidavit has demonstrated a number of constraints made her unable to prosecute the matter at hand within time and that she was not negligent on her part to prosecute the matter within statutory time. For the reader of this Ruling to appreciate the contents thereto, I have decided to quote the said paragraph for ease of reference as herein below:

*"16. That, my lateness was not caused by negligence, insolence or lack of interest to prosecute but was contributed by the following reasons:*

*That, after obtaining the District Court judgment few days later I fell sick being possessed with demons hence transported to Msanga Coast region for traditional treatment and came back to Dar es Salaam on 10/12/2018.*

- ii. *That, being a layman, I was not aware of time limitation as well as that a copy of Primary Court judgment was not a requirement for appeal or revision until informed so by advocate Amini M. Mshana.*
- iii. *That, I was informed by Mr. Mshana that Court and Advocates take vacations on 15/12/2018 and nothing could be done and had to scrap up every means to get money but was not possible till 23/12/2017.*
- iv. *That, being poor and relying on rent from tenants in the house in dispute had to wait until paid rent on 23/12/2018 to pay for Advocate as well as filing fees and taking into account Advocates started vacations on 15/12/2018.*
- v. *That, it took time to prosecute all Misc. Applications the last one being **MISC. CIVIL APPLICATION NO. 03 OF 2019** and **MISC CIVIL APPLICATION NO. 600 OF 2019** before this Honorable Court."*

Further, in determining the instant Application, I have also detected some sufficient reasons for delay as stated in paragraphs **9 and 11** of her Affidavit. I have also seen it proper to quote the same for ease of reference as below:

"9. That, the Kinondoni District after delivery of the Judgment on **18/09/2018** regardless of I being in the court corridor every day since delivery of the judgment waiting for the copy of the same, it took almost 2 months and several weeks to receive certified copies as I received the same on **14/11/2018**.

11. That, the Application that is **MISC CIVIL APPLICATION NO. 03 OF 2019** met with a preliminary objection concerning defects in the affidavit which was heard before Hon. J. L. Masabo , Judge and on 23<sup>rd</sup> day of May, 2019 ruling was pronounced in my presence and advocate **JACOB SENGUJI** holding brief for Advocate **AMINI MOHAMED MSHANA** who mistakenly thought the application had been dismissed."

It is from the above, I am satisfied that:

**1<sup>st</sup>**, the good or rather sufficient cause for the court to extend time has been demonstrated by the Applicant; and

**2<sup>nd</sup>**, that the Applicant was not idle in making follow-up in litigating the matter for her right.

As the grant or refusal of this kind of application lies on the **court's discretion though judiciously**, basing on above, and with consideration of the pleadings by the parties and their



respective submissions, I find that the Applicant herein **have been able to convince this court that she has justifiable reasons advanced by her for this honorable court to grant the prayer sought.**

That being the case, I hereby proceed to **grant the Application accordingly.**

It is from the above decision, I proceed to order the Applicant to file the intended Revision **within the period of 14 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  
11/06/2021**

**Court:** Ruling delivered in my chambers in the presence of the Applicant in person and Ms. Msuya RMA, this 11<sup>th</sup> day of June, 2021.



**L. E. MGONYA  
JUDGE  
11/6/2021**