

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

BUKOBA DISTRICT REGISTRY

AT BUKOBA

CIVIL APPLICATION NO. 24 OF 2020

*(Originating from H/C Civil Application No. 1 of 2018 District Court Civil Revision No. 12 of 2017
Primary Court Civil Case No. 73 of 2017)*

MESHACK ARON..... APPLICANT

VERSUS

CHRISTINA DEOGRATIAS RESPONDENT

RULING

19/07/2021

NGIGWANA, J

The Applicant Meshack Aron has lodged a Chamber Application made under **Order XLIII rule 2 and Order XXXIV rule 9 of the Civil Procedure Code Cap. 33 RE: 2019**. The Chamber Summons is supported by an affidavit of the applicant. The orders sought therein are as follows;

- (i) That the court be pleased to set aside the dismissal order.*
- (ii) That the applicant be allowed to defend himself in a suit.*
- (iii) Costs of the application be provided for.*

When the chamber summons was served to the Respondent, the Respondent she filed a counter affidavit together with a notice of preliminary objection where as she raised the following objections on point law;

- (1) *That the application is incurably defective due to citation of a non-existing law to move the court.*
- (2) *That the application is hopelessly filed out of time contrary to law.*

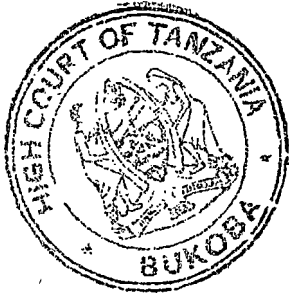
When the Application was called on for hearing, the Applicant had the services of Mr. Assey learned counsel, while the Respondent had the services of Mr. Eliphas Denges, learned counsel.

At the outset Mr. Assey, learned advocate for the applicant conceded to the Preliminary points of objection on the accounts of the application to set aside the dismissal order being time barred, and that the court was not properly moved, hence prayed that the application be struck out with no order as to costs. The prayer that the matter be struck out with no order as to costs was positively welcomed by the learned counsel for the Respondent.

As correctly raised, and conceded by the learned counsel for the Applicant, the application is time barred since the dismissal order was issued on 04/05/2020 in which Application No. 1 of 2018 Arising from Bukoba Primary Court No. 73 of 2017 and Bukoba District Court Revision No. 12 of 2071 was dismissal by this court for want of prosecution but this application was filed on 24/07/2020. It is also apparrant as agreed by both parties that the court was not properly moved.

In the circumstances, this application is hereby struck out. The Applicant conceded to the Preliminary points of objection therefore deserves not to be condemned to pay costs.

Its so ordered.

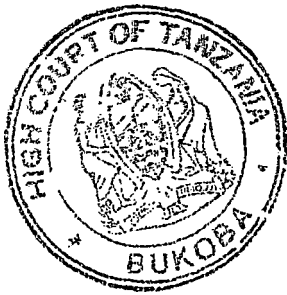



E.L. NGIGWANA

JUDGE

19/07/2021

Ruling delivered this 19th day of July 2021 in the presence of the Applicant, his advocate Mr. Assey, Respondent and her advocate Mr. Eliphas Denges.




E.L. NGIGWANA

JUDGE

19/07/2021