

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE DISTRICT REGISTRY OF BUKOBA  
AT BUKOBA**

**MISC. CIVIL APPEAL No. 21 OF 2020**  
*(Arising from RM's Court)*

**LEONCE ANGELO .....APPELLANT**

***VERSUS***

**ADRIAN NOVATH ..... 1<sup>ST</sup> RESPONDENT**

**PASTORY NOVAT ..... 2<sup>ND</sup> RESPONDENT**

**DOMITINA ANGELO ..... 3<sup>RD</sup> RESPONDENT**

**STEVEN SOSPETER MIAKA ..... 4<sup>TH</sup> RESPONDENT**

**JUDGMENT**

***Kilekamajenga, J.***

The appellant was charged with the offence of stealing a will and sentenced to serve five years in prison. The appellant appealed to this Court and the decision of the trial Court was set aside on 16/11/2015. On 22<sup>nd</sup> October 2018, the appellant sued the respondents for malicious prosecution, false imprisonment and defamation. On 5<sup>th</sup> December 2019, the counsel for the appellant addressed the Court that the case was in backlog cases and prayed to withdraw it. As a result, the suit was marked withdrawn with leave to re-file without payment of Court fees. On 24<sup>th</sup> February 2020, the appellant re-filed his case which was objected by the respondents on the reason that the same was time-barred. The suit was therefore dismissed hence this appeal.

When the parties appeared before me, the appellant was present and represented by the learned advocate, Mr. Mathias Rweyemamu whereas the respondents were absent. During the oral submission, the counsel for the appellant informed the Court about the nature of the appeal and prayed for the appeal to be allowed.

Without further ado, I have considered the appeal, and it is evident that the initial suit was brought before the expiry of three years as the law requires under the Law of Limitation Act. Therefore, the case was brought within time. In my view, the Magistrate mis-directed to dismiss the suit on the ground that it was brought out of time. I hereby allow the appeal and direct that, the appellant should be allowed to file his suit against the respondents. I set aside the order of Resident Magistrates' Court which dismissed the suit. Costs of the case to follow in the course. It is so ordered.

Dated at Bukoba this 27<sup>th</sup> July 2021



  
**Ntemi N. Kilekamajenga**  
**JUDGE**  
**27/07/2021**

**Court:**

Judgement delivered this 27<sup>th</sup> July 2021 in the presence of the appellant and in the absence of the respondents. Right of appeal explained.



  
**Ntemi N. Kilekamajenga**  
**JUDGE**  
**27/07/2021**