

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF KIGOMA

AT KIGOMA

(APPELLATE JURISDICTION)

MISC. CIVIL APPLICATION NO. 18/2021

(Arising from DC Civil Appeal No. 11/2020 of the High Court, Before I.C. Mugeta, J
and originating from Civil Case No. 9/2019 of Kigoma District Court Before: Hon.
K.V. Mwakitalu, RM)

MUSSA MUSTAFA.....APPLICANT

VERSUS

HALID AHAMADRESPONDENT

RULING

20th & 20 September 2021

A. MATUMA, J

The applicant was aggrieved with the decision of this court in (DC) Civil Appeal No. 11/2020 (Hon. I.C. Mugeta, J).

He could not however lodge an application for leave in time as the law enjoins.



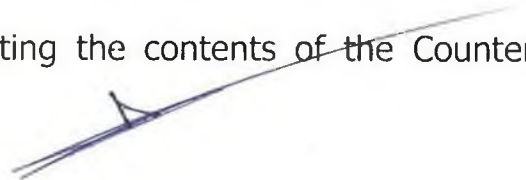
He thus applied successfully for extension of time to file an application for leave (Misc. Land Application NO. 8/2021, Hon. I.C. Mugeta, J). He was extended fourteen (14) days within which to lodge such application.

The applicant relaxed after the extension and filed his application out of the extended fourteen days. Such application was struck out for having been filed out of the extended time (Misc. Civil Application No. 12/2020).

The Applicant is now before me seeking extension of time for the second time so that he can file an application for leave to appeal to the Court of Appeal against the decision above stated.

At the hearing of this application both parties were present in person and were represented accordingly. Mr. Gilagiza learned advocate who was holding brief of Mr. Masendeka Ndayanse with leave to proceed, made his submission by adopting the applicant's affidavit which was deposed by his advocate Mr. Ndayanse supra.

Sadiki Aliko learned advocate represented the Respondent and he also made his submission reiterating the contents of the Counter affidavit thereof.



Having heard the parties for and against this application, I find that the same has been brought without any sufficient cause and in total abuse of the court process.

The applicant had already obtained extension of time to file his Application for leave to appeal, but did not honour the days extended by this Court. He lodged his application out of the extended days without any excuse which led to its being struck out.

He is now before me seeking the same thing he was already given by this very same court. Had he been serious he would have acted within the extended time, otherwise it is re-calling the court to re-seat on the same matter which has already been adjudicated fully on the same prayers between the same parties.

The applicant for not being aggrieved with the decision of this court in Misc. Civil Application NO. 12/2020, he is taken to agree that he lodged his application out of the extended time.

He has deposed under paragraph 4 of his affidavit that the days delayed were spent in prosecuting Misc. Civil Application no. 20/2020 and Misc. Civil Application no. 12/2021. In the circumstances, he is pressing that the time spent in Court prosecuting those applications constitutes sufficient cause for the delay hence calls for this application to be granted.

In the first place let me put it clear that extension of time is only grantable when sufficient cause is established as rightly submitted by Mr. Sadiki Aiki learned advocate. Sufficient cause is established when the period of delay is accounted for each day of the delay. See; ***Ngao Godwin Losero versus Julius Mwarabu, Civil Application No. 10 of 2015.***

In the instant matter the time spent to prosecute an incompetent application number 20/2020 supra was used as a reason for extension of time by my learned brother Mugeta, J. in Misc. Civil Application no. 8 of 2021 whereas the Applicant was extended 14 days to file his intended Application for leave to appeal. Therefore, the time from when DC Civil Appeal no. 11/2020 was dismissed up to the time when Misc. Civil Application no. 8/2021 was granted (04/05/2021) is not at issue. The problem is from the date of the extension such 4th May, 2021 to the day when the instant application was filed i.e 5th August, 2021. Within this period there is an incompetent Application no. 12/2021 supra. Even if I have to agree that such time be condoned, the Applicant has not accounted for the period between when he was extended the time for the first time until when such time expired without any action. Within that time there was no matter pending in Court for the applicant to annexed himself to it to purport that he was busy prosecuting it. It was the time

he had at hand the order of 14 days extension by this Court. He should have thus accounted as to why he did not act within the extended 14 days to warrant him further extension.

It is awkward for a person who has been extended time but do not use the same until its expiry, then he knocks the court's door for the second time to seek the same thing. That is not accepted at all, unless there would have been advanced sufficient cause as to why the applicant could not act within the extended period. In the case of ***Nyamunini Ntarambigwa versus Simon Kikoti, Misc. Land Appeal no. 19 of 2020, High Court at Kigoma*** which I also quoted in the case of *Mussa Mustafa versus Halid Ahamadi, Misc. Civil Application no. 12/2020* who are in fact the parties in the instant matter, I made some observations against advocates for the parties to cases before the Court who does not honour the Court's time. I ruled;

"Courts' time is so precious, we are jealous of it when one wants to consume the same with irrelevant arguments to camouflage his mistakes, wrongs, mischiefs or to please his client who by the time of such arguments is looking at him with a speaking eye that; 'but I was making follow ups to you and you always told me to be patient, now look, what have you done!'"

In the like manner, this Court has already spent its time to hear the applicant for extension of time. It took its another time to compose the ruling thereof and subsequently granted the applicant 14 days for him to file his intended application. He did not honour such time and he is again before this court seeking this court to reseat again on the same prayer it had already granted earlier on.

As rightly argued by Mr. Sadiki Alikali learned advocate for the Respondent, ***litigations must come to an end***. The Applicant has been in court for several applications of a similar nature against the same Respondent. Some of them are mentioned in his own affidavit at hand. It is the high time now, to end this matter between the parties at the level of this Court. Since we had already extended him time, since he did not honour such time, since he has not accounted for why he did not spend the time we extended him earlier, we have no more time remaining to re-grant him.

He should blame himself for his dishonest and disrespect to the court's order (the 14 days extended to him earlier on).

This application stands dismissed with costs. It is so ordered.





A handwritten signature in blue ink, appearing to read "A. MATUMA", is written over a horizontal line.

A. MATUMA

JUDGE

20/9/2021

Court: This Ruling is delivered in chamber on this 20th day of September, 2021 in the presence of the parties in person and in the absence of their respective advocates.

Sgd: A. MATUMA

JUDGE

20/9/2021