

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

MISC. CIVIL APPLICATION NO. 39 OF 2021

(Originating from Bukoba D/C Civil Appeal No. 1/2020 of Civil case No. 163/2020 urban Primary Court)

JACKLINE MAJID APPLICANT

Versus

TAYUSO ENTERPRISE RESPONDENT

RULING

Date of last order 07/10/2021 Date of Ruling 07/10/2021

Kilekamajenga, J.

The applicant approached this Honorable court through the legal services of the learned advocate, Mr. Danstan Mujaki. The applicant moved the court by way of chamber summons seeking extension of time to file an appeal. The application was made under **Rule 3 of the Civil procedure (Appeals in proceedings originates in Primary Court) Rules GN No. 312 of 1964** and supported with an affidavit deposed by the applicant. The Court invited the parties to fend the application. The applicant enjoyed the legal services of the learned advocate, Mr. Danstan Mujaki whereas the respondent was represented by the learned advocate, Mr. Pereus Mutasingwa. When advancing the reasons for the delay, Mr. Mujaki stated that the judgment of the District Court was delivered on 16/04/2021; by that time, the applicant had travelled to Muhimbili National Hospital for Medical treatment because she (applicant) travelled to Dar-es- Salaam on 13/3/2021 and she was admitted on 21/4/2021 for surgery. On 25/04/2021, she was discharged and returned to Bukoba on 20/05/2021.

On 27/05/2021, the applicant seemed to regain and followed-up the copy of judgment. She finally filed the instant application on 29/6/2021. The counsel insisted that the applicant advanced sufficient cause for the delay and therefore has good reasons for extending time to file the appeal.

On the other hand, the counsel for the respondent resisted the application because the applicant failed to account for each day of delay especially from 27/05/2020 when she followed-up the copy of judgment to the date of filing the instant application i.e. on 29/06/2021. All these days have not been advocated for. Mr. Mutasingwa further argued that the applicant returned from Dar-es- Salaam on 13/5/2021 and she could have lodged the appeal within time on 16/06/2021. Also, the applicant failed to indicate any errors apparent on the decision of the District Court for the appellate court to rectify. In his view, the court must consider sufficient reasons for the delay but also sufficient reasons for extending the time. To bolster the argument, the counsel cited the case of **Moses Mchunguzi v. Tanzania Cigarette Company LTD, Civil reference No. 3 of 2018**, CAT at Bukoba (unreported). He finally urged the court to dismiss the application.

In determining the instant application, I wish to insist that the law on extension of time is already settled. Extension of time is the discretion of the court which however must be exercised judiciously after the applicant has advanced sufficient reasons for the delay. However, what amount to sufficient cause has not been defined. Therefore, the circumstances of the case may guide the court in

determining whether the applicant has advanced sufficient cause for the delay. In the instant application, the major reason for delay advanced by the applicant was illness on the part of the applicant. The record shows that, the applicant travelled to Dar-es-salaam for medical treatment before the District Court delivered the judgment. When the applicant returned to Bukoba, she secured the copy of judgment and finally filed the instant application. I have considered the instant application and perused the court file; there is enough evidence proving that the applicant was admitted in Dar-es-Salaam and come back when the judgment was already delivered. In my view, the applicant who was, so far unrepresented, could not have made an appeal on time when she was battling for her life in Hospital. Illness on the part of the applicant is a sufficient cause for the court to enlarge time. In the instant application, I find the applicant has advanced good reason sufficient to warrant the extension of time. I hereby allow the application and order the applicant to file the appeal within 14 days from the

date of this order. The costs of the case shall follow the course. It is so ordered



Court:


Ntemi N. Kilekamajenga
JUDGE
07/10/2021

Ruling delivered in the presence of the applicant and her counsel, Mr. Danstan Mujaki and the respondent and her counsel, Mr. Pereus Mutasingwa. Right of appeal explained.




Ntemi N. Kilekamajenga
JUDGE
07/10/2021