

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

**MISCL. CIVIL APPLICATION NO. 327 OF 2020**

**ZUWENA YASIN GORAGOZA ..... APPLICANT**

***VERSUS***

**PETER RICHARD KABODO..... 1<sup>ST</sup> RESPONDENT**

**DAVID RICHARD ..... 2<sup>ND</sup> RESPONDENT**

*Date of last Order: 19/ 05/2021*

*Date of Ruling: 16/07/2021*

**R U L I N G**

**MGONYA, J.**

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

- 1. That this, Honorable Court may be pleased to extend time within which to file an appeal out of time.***
- 2. Costs of this application be provided for.***
- 3. Any other order orders as this Honorable Court may deem fit and just to grant.***

The Application is supported by an Affidavit affirmed by **Zuwena Yasin Goragoza** the Applicant herein.

When the Application came up for hearing on 24<sup>th</sup> February 2021, from both parties' prayer, I ordered the Application be disposed by way of written submissions. The said order has been duly adhered to, hence this Ruling.

In the instant Application, the Applicant through his Affidavit has submitted the reason for delay to file for an Application for setting aside the dismissal order within statutory time was not contributed by his negligence but rather from the sickness that she encountered before and after the lower court's judgment was delivered. The Applicant informed the court that, out of the said sickness, it was difficult for her to file the Appeal within statutory time. Copies of the treatment documents from **Taifo Kunduchi Mtongani Dispensary** was attached as evidence to her assertion.

From the above enlightenment, Applicant prayed the court to grant the order sought.

Responding to the Application, both Respondents vigorously objected the Application claiming that it was the Applicant's negligence which resulted her not to appeal within statutory time. In the event therefore, Respondents prayed this court to dismiss the Application in its entirety for lack of merit with costs.

Before I venture to determine the merits of the Application, I wish to make an observation that; indeed it is trite Law that an Application for extension of time is entirely in the discretion of the court to grant or refuse it. This discretion however has to be exercised judicially and the overriding is that **there must be sufficient cause for so doing.**

I understand that it is difficult to attempt to define the meaning of the words "**Sufficient Cause**". However the Court of Appeal of Tanzania in the case of ***THE REGISTERED TRUSTEES OF THE ARCHDIOCESE OF DAR ES SALAAM VS. THE CHAIRMAN BUNJU VILLAGE GOVERNMENT & 4 OTHERS*** in Civil Appeal No. 147 of 2016 observed that:

***"It is generally accepted however that the words should receive a liberal construction in order to advance substantial justice when no negligence or inaction or want of bonafides is imputable to the Appellant".***

The crucial question in this matter is whether the Applicant has established "**Sufficient Cause**" to warrant this court to employ its discretionary power of grant an Application to grant the prayer sought after the Applicant has failed to file his

Application for restoration of his appeal after the same was dismissed for want of prosecution.

It should be observed that the term **"Sufficient Case"** should not be interpreted narrowly but should be given a wide interpretation to encompass all reasons or causes which are outside the Applicant's power to control or influence resulting in delay in taking any necessary step.

Going through **paragraph 4** of the Applicant's Affidavit and the submission thereto, I have detected that the Applicant had a health problems which hindered her in pursuing well her matter and particularly the appeal. In the circumstances, indeed there was no way that she could have been in good condition to make proper follow-up and preparing appeal in that respect.

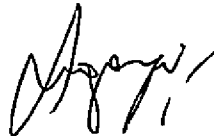
In the event therefore, I don't see any negligence from the Applicant in that event. Under the situation therefore, **I am satisfied that sufficient reason for the court to grant an order sought has been demonstrated.**

Since I am of the view that the delay was with sufficient cause, for the reasons stated, **the Application for extension of time to file her appeal to this honorable court is accordingly granted as prayed.**

Further, the Applicant is to file the intended Appeal **within 14 days' time from the date of receiving a copy of this Ruling.**

It is so ordered.

I make no order as to costs.

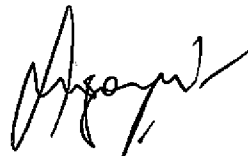


**L. E. MGONYA**

**JUDGE**

**16/07/2021**

**COURT:** Ruling delivered in chamber in the presence of the Applicant and 2<sup>nd</sup> Respondent in person and absence of 1<sup>st</sup> Respondent and Ms. Msuya, Bench Clerk on this 16<sup>th</sup> day of July, 2021.



**L. E. MGONYA**

**JUDGE**

**16/07/2021**