

**IN THE HIGH COURT THE UNITED REPUBLIC OF TANZANIA
(MWANZA SUB-REGISTRY)**

AT MWANZA

MISC. CIVIL APPLICATION NO. 10 OF 2022

(Arising from the Resident Magistrate's Court of Mwanza Civil Case No. 39 of 2017 delivered on 30th September, 2019)

ALLIANCE INSURANCE CORPORATION LIMITED.....APPLICANT

VERSUS

**GEORGE JOSEPHAT KIKENE (Administrator of the
Estate of the late Josephat Kikene Mwita).....1ST RESPONDENT**
BIRCHAND OIL MILL LIMITED.....2ND RESPONDENT
MZEE MASALU.....3RD RESPONDENT

RULING

2nd June, 2022

DYANSOBERA, J.:

In this application, the applicant is seeking for leave of extension of time to file an appeal, among others. The application has been made under Section 14 (1) of the Law of Limitation Act [Cap. 89 R.E.2019]. The affidavit of Mr. Emmanuel John, learned Counsel has been filed in support of the Chamber Summons.

After the matter was adjourned to enable service be effected on the respondents, the matter was ultimately set for hearing of the application. The respondents were duly served and the hearing of the application was set to be on 8th April, 2022. Mr. Pooja Karia, learned Advocate appeared for the applicant. The matter was set for hearing on 21st day of June, 2022, that is today.

When the application was called for hearing as scheduled, the applicant was absent. Ms Suzan Gisabu, learned Advocate appeared for the 2nd respondent. She rose up and informed the court that the applicant has defaulted appearance and prayed the court to dismiss the application for want of prosecution. She explained that it would seem parties have settled the matter out of court and this explains the applicant's failure to attend the court.

With respect, I agree that the application should be dismissed. The applicant was, through his learned Advocate one Pooja Karia, aware that the application was coming to be heard today. Both he, the applicant and his advocate have made no appearance and no notice has been filed for their default. it was ordered that the hearing of the application be

To adjourn is to put the matter for another time or date. I take it that an adjournment must be a last resort of the court and should only be granted where only good reasons have been advanced and which are essential to ensure justice. It has been the practice that our courts discourage unnecessary adjournments. For instance, this court in discouraging delays observed in the case of **Ezekiel E. Chenge v. Adam Kaita**, High Court Civil Case No. 40 OF 1998 at Mwanza (unreported) that litigations like life must have an end, prolonged litigations waste time, money, moral energy etc. This Court in the just cited decision

borrowed the prudence in **Amratlal Damodar v. Att. Jariwalla** (1980) TLR. 31.

This court also values the importance of time as it observed in the case of *Moses **Obed v. Jitenden Nkuba***, (PC) HC Civil Appeal No. 1 of 2002 at Tabora (unreported).

Moreover, scheduling the case for hearing is one of the case management which is the mandate of a judge and parties to the case must abide by such orders. In **Ally Hussein Masunga v. Msingwa Abdallah Kibuzi**: High Court Civil Appeal No. 12 of 1986 at Tabora, this court observed that court orders in scheduling the hearing of matters in courts must be observed by parties otherwise court process will be rendered ridicule. I adopt that standing.

For the reasons stated, I decline to grant the adjournment and accede to the prayer by Ms Suzan Gisabu that this application should be dismissed.

For the stated reasons, I dismiss this application with costs for want of prosecution.

Order accordingly.



W.P. Dyansobera

Judge

21.6.2022

This ruling is delivered under my hand and the seal of this Court on this 21st day of June, 2022 in the presence of Ms Suzan Gisabu, learned Advocate for the 2nd respondent but in the absence of the applicant, the 1st and 3rd respondents.



A handwritten signature in blue ink, appearing to read "W.P. Dyansobera".

W.P. Dyansobera
Judge