

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

**CIVIL APPEAL No. 10 OF 2021**  
**(Arising from the decision of the Shinyanga District Court in Misc. Civil  
Case No. 19 of 2020)**

**NKOBADI LUSAMULA MARANDO ..... APPELLANT**  
**VERSUS**  
**DR. NGANYANGA SOSOMA.....RESPONDENT**

**JUDGMENT**

*27<sup>th</sup> March & 6<sup>th</sup> May 1, 2022*

**MKWIZU J.**

The Appellant unsuccessfully file an application for extension of time to file an application for readmission of civil Appeal No. 45 of 2019 at the District Court of Shinyanga. The District Court Magistrate found the applicant's application without sufficient reasons for the delay. Dissatisfied, applicant has approached this court with two grounds of appeal to wit: -

- 1. That, the trial magistrate erred in fact and law by failing to consider and evaluate evidence before him*
  
- 2. That, the trial magistrate erred in fact and law by reaching on the decision that the applicant did not demonstrate any sufficient cause enough for the court to extend time while the applicant provided the letters which were enough evidence to prove that the appellant received the Order late and it was not his fault but court's fault.*

Through Ms Gloria Ikanda advocate, the appellant argued ground one and abandoned ground two. Submitting in support of the first ground and the sole ground of appeal, Ms Ikanda blamed the trial court for not considering the evidence (two letters) tendered by the applicant evidencing his efforts to request for the copy of the decision without success. She prayed for the court to allow the appeal without more.

On the other hand, the unrepresented respondent opposed the appeal stating that the trial court was right in dismissing the appellants application for he failed to convince the court that the delay was with reasonable cause.

I have keenly evaluated the party's submissions as well as the records. The issue for determination centres on whether the appellant's **reasons** for the delay as presented at the trial court were **sufficient** to warrant the court to grant the application. The only reason for the delay in Application No 19 of 2020 is the delay by the court to serve the appellant with the copy of the decision. The Appellant stated that the dismissal order was issued on 6/3/2020 and he on 10/3/2020 applied for certified copies of the order but could not be supplied with the same until 2/10/2020 and he ultimately filed his application for extension of time on 25/10/2020.

In her decision the trial magistrate said there is no evidence that such letters were received in court on the alleged dates. And that even if they were received as alleged, still the applicant (now appellant) failed to account for the period from 2/10/2020 to 25/10/2020 when he filed the application subject of this appeal.

I have perused the annexures to the affidavit by the appellant at the trial court. It is only one letter that was attached, as annexure B, however, as correctly held by the trial magistrate that letter has no signs that it was ever presented to the court for any purpose.

Again, both the affidavit in support of the application and the written submissions, are silence on what was befalling the appellant from 2/10/2020 when he received the said copies to 25/10/2020 when she filed the application for extension of time. It is as correctly put by the trial magistrate settled that in an application for extension of time, applicant must account for the day of the delay one by one contrary to which the application is liable to be dismissed. Appellant failed in his application to firstly, justify his reason his reason for the delay and secondly, to account for each day of the delay, I find nothing to fault the trial court's decision.

That said, I find the appeal unmeritorious. It is dismissed with costs.

Order accordingly.

**Dated at Shinyanga this 6<sup>th</sup> day of MAY 2022**

  
**E.Y. MKWIZU**

**JUDGE**

**6/5/2022**