

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

AT DAR ES SALAAM

MISCELLANEOUS CIVIL APPLICATION NO. 597 OF 2020

HIGH HOPEINT GROUP JIANGSU NATIVE

PRODUCE IMPORT & EXPORT CORP. LTDAPPLICANT

VERSUS

JDC TEXTILE (TANZANIA) CO. LIMITED.....RESPONDENT

RULING

MRUMA,J.

The Applicant herein High Hope Int'l Group Jiangsu Native Product Import and Export Corp Limited filed this application against JOC Textile (Tanzania) Co Ltd herein called the Respondent seeking orders that this court be pleased to grant extension of time to file foreign award. The application is brought under section 14(1) and section 21(2) of the Law of Limitation Act.

The application is grounded on the following.

1. That on 11th day of December 2018 an Arbitral Award was issued by the China International Economic and Trade Arbitration Commission in favour of the Applicant where it was decided that the Respondent pay the principle sum of USD 68,000,000 to the Applicant.

2. That following the insurance of the Award the Respondent appealed to the Beijing Fourth Intermediate People's Court of People's Republic of China where by ruling was delivered on 8.5.2019 in favour of the Applicant herein.
3. That in the investigations carried out by the Applicant it was discovered that the Respondent did not have any assets overseas and the only available option was to enforce the award in Tanzania where the Respondent's Company conducts its operations.
4. That the process of obtaining legal documents, required for foreign award to be eligible for registration and enforcement in the country involves several quasi – judicial and government offices which need time.

In the affidavit in support of the application deposed by RICO Adolf advocate representing the Applicants, the Applicant's delay in filing the award was occasioned by several factors which include the delay in procuring the requisite documentation, the appeal filed by the Respondent and the application which was filed under wrong law. On 5.5.2021 this court (Mlacha, J) ordered the application to be heard ex- parte.

It is trite law that granting or denying extension of time is discretionary power of the court. The threshold for exercise of such discretion has been crystalized by case law. It is simply that the exercise of the court's discretion is unfettered but does require establishment of sufficient reasons save for the court to bear in mind that in the exercise of its discretion the courts. Primary concern should be to do justice to the parties before it.

The factors that the court has to bear in mind when deciding either way are not limited to consideration of reasons for delay in filing the application for extension of time, as well as the explanation thereof, the prejudice to be suffered by the Respondent if the application is to be granted, the public importance (if any) of the matter and generally the requirements of the interest of justice.

I have carefully considered the above principles in the light of the submissions of the Applicant's counsel and the general requirements of the interests of justice and it is my considered view the application should be granted. As stated hereinabove, to succeed in an application for extension of time the Applicant has to meet two thresholds namely;

- i. Showing sufficient cause for delay
- ii. Accounting for every day of delay, sufficient cause has been shown in paragraphs 17,18,19,21,24 and 26 of the affidavit of the Applicant's affidavit.

In the process of showing sufficient cause the Applicant has accounted for every day of delay.

The above being the position, I grant the extension sought. The Applicant shall file an application to the file ^aforeign award within 14 days from the date of this order.,


A.R. Mruma

Judge

25/2/2026.

25/2/2022


Coram : Hon. A.R. Mruma, J.

For the Applicant : Mr Edward for RICO Adolf for Application

For the Respondent : Mr Edward Magayane for

Cc : Delphina

Court: Ruling delivered.



A.R. Mruma

Judge

25/2/2022