

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

**AT DAR ES SALAAM**

**MISCELLANEOUS CIVIL APPLICATION NO. 293/2022**

*(Originating from civil case No.156 of 2019 in the High Court of Tanzania at Dar es Salaam  
(District registry), by Hon. DE-MELLO, J. Dated 16<sup>th</sup> day of July, 2020)*

**MONEY EXPERTS LTD ..... APPLICANT**

**VERSUS**

**SAMNA (T) INVESTMENT LIMITED ..... 1<sup>st</sup> RESPONDENT**

**SAMWELI SULE NAKEI ..... 2<sup>nd</sup> RESPONDENT**

**SHAMSA SALIM HAMDUNI ..... 3<sup>rd</sup> RESPONDENT**

**R U L I N G**

*19<sup>th</sup> September & 6<sup>th</sup> October, 2022*

**MWANGA, J.**

The applicant, Money Experts Ltd is applying for an extension of time to file review of the decision issued in this court on 16<sup>th</sup> July, 2020 before De-Mello, J. The application was brought under Section 14(1) of the Law of limitation Act, Cap. 89 R.E. 2019.

The applicant was represented by Mr. Elisha Kiula, the learned counsel and the respondents were absent, hence the matter proceeded ex parte. During

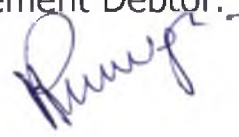


the hearing, the learned counsel adopted the affidavit sworn by Rajesh Kumar Shivji Aggarwal to form part of his submission.

Briefly stated, the applicant filed a Civil Case No. 156 of 2019 before the High Court between **Money Experts Ltd V Samna (T) Investment Ltd and Others** on 16<sup>th</sup> day of July, 2020. Order or Judgement and decree was issued by Hon. De-Mello in favour of the applicant. That on 15<sup>th</sup> of March 2021 the applicant through its authorized officer filed an Application for Execution No. 16 of 2021 which was presided over by Hon. Mruma, J.

The learned counsel further submitted that on the very first date for mention, some errors which were so apparent on the face of record in the judgement and decree were pointed out that: -

- a) the title of the Judgement read 'Order' instead of 'Judgement.'
- b) the number of cases is written Civil Case No. 152 of 2019 instead of Civil Case No. 156 of 2019.
- c) the quorum of the court did not indicate that all the defendants (who are the Respondents) in this application were absent.
- d) the Decree do not show the amount awarded by the High Court to the Decree Holder against the Judgement Debtor.



e) the Decree does not state (if any) costs of the case were awarded in the suit.

The learned counsel stated that, following observation of these defects, the Hon. Judge suggested that, they should ask for rectification or amendment of the Order and Decree of the court. It was the applicant narratives that they had to write a letter dated 22/09/2021 addressed to the Deputy Registrar on 22<sup>nd</sup> day of September, 2021 for correction of the mentioned errors. He also added that this was followed by a reminder letter dated 13<sup>th</sup> day of October, 2021, but the effort was also in vain.

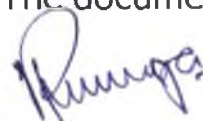
It was also the relevant fact that, on 26<sup>th</sup> day of January, 2022 the applicant received a written reply from the Register advising him to bring a formal application to the Court to request for the same. Following that, on 11<sup>th</sup> of February, 2022 the applicant filed a formal application in Miscellaneous Application No. 55/2022 which was presided over by Hon. Kisanya, J. but, subsequently it was withdrawn with a view to take an alternative route of review rather than that of rectification. In the course of pursuing this matter, he found out that time for limitation period of 30 days had already expired.



On his course to seek the leave of this court to grant his prayer, the applicant argued that, he did not waste time to file this current application and if time is not extended, he is likely to suffer an irreparable loss. He further added that, the only means to render the court order meaningful for this court to enable correction of the judgement and orders in Civil Case No. 156/2019 dated on 16<sup>th</sup> of July, 2020.

In addition to the above, the learned counsel submitted that, errors occasioned in the Judgement and Decree were caused by the trial court and not by the applicant, hence it is important for the application extending time to be considered. In support of his argument, he cited the case of **John Hilarious Nyakibari V R, Criminal Appeal No. 125/2020**, where it was held that errors occasioned by the court cannot be used to affect the litigant. He also asked this court to consider efforts or steps taken by the applicant in pursuing this matter as a **good cause** for extension of time. He referred this Court in the case of **Irene Temu vs. Ngasa M. Ndindi and 2 others**, Civil Application No. 278 of 2017, where it was held that **good cause** depends on case to case.

I have considered that submission by the learned counsel and inclined to state that this is a fit case to grant extension of time. The documentations



relating to this application speak by itself. It is shown that errors identified were so apparent to the extent that the order or decree cannot be executed in the manner stated. However, I must say that, the approach by applicant to pursue the matter was, to some extent, not a cherished one. He failed to identify the appropriate remedy for this matter right from the start, after having realized that Order/Judgment and Decree contained such errors. In other words, the applicant was not supposed to do window shopping on the appropriate remedy to be taken.

Despite all that, considering the nature and circumstances of the errors occasioned and the steps taken by all concerned to rectify the same, I find it prudent hold that, it constitutes a good cause. The application is therefore granted. It has to be filed within 14 days from the date this ruling.

It is so ordered.



  
**H.R. MWANGA**

**JUDGE**

**06/10/2022**

**ORDER:**

Ruling delivered in Chambers this 6<sup>th</sup> day of October, 2022 in the presence of Mr. Eberhard Haule, the Principal Officer of the Money Expert and absence of the respondents.



  
**H.R. MWANGA**

**JUDGE**

**06/10/2022**