

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

LABOUR DIVISION AT ARUSHA

MISC. APPLICATION NO.56 OF 2022

**(C/f Application for Execution No.96 of 2021 at the High Court of Tanzania ,
Labour Division at Arusha, originating from Employment Dispute No. CMA/
ARS/ARB/62/2015)**

**ELINDE JOSEPH MAFIE (Suing as the Administrator of the estate
Of the late Abraham Obedi Kaaya).....1st APPLICANT**

PULTCHERIA PAUL MMASI.....2nd APPLICANT

JOYCE JOHN FRANK.....3rd APPLICANT

Vrs

KIBO POULTRY PRODUCT LTD.....RESPONDENT.

RULING

Date of last Order: 26-10-2022

Date of Ruling: 28-10-2022

B.K.PHILLIP,J

This application is made under Rule 24(1), (2), (3) (a) (b) (c) and 56(1) (3) of the Court Rules, G.N. 106 of 2007. The applicants are praying for the following orders;

- i) That this Honourable Court be pleased to extend time for the applicants to file an application for revision against the decision of the Deputy Registrar of the High Court of the United Republic of Tanzania (Labour Division) at Arusha in application for Execution No.96 of 2021 delivered on 29th March 2022.

- ii) Any other orders that this Honourable Court deems fit and just to grant.

The application is supported by a joint affidavit sworn by the applicants. The respondent was served with the application but did not file a Counter affidavit. The learned Advocate, Elibariki Maeda and Emmanuel Anthony appeared for the applicants and respondent respectively.

When the application was called for necessary Orders the learned advocate Anthony, informed this Court that respondent has no intention to contest the application. He urged this Court to grant the application to pave a way for the applicants to lodge their application for revision for determination of the merit of the dispute between the parties herein.

On his part, the learned Advocate Maeda, adopted the contents of the affidavit in support of this application and prayed this application to be granted.

A brief back ground to this application is that the applicants herein were applicants / decree holders in aforementioned Application for Execution No.96 of 2021 (Hereinafter to be referred to as " application for execution") and the respondent herein was the judgment debtor. Upon being served with the application for execution aforesaid, the respondent raised a point of preliminary objection that the application was *res judicata*. The same was heard on merit. On the 29th March 2022 the Deputy Registrar delivered her Ruling in which she upheld the point of preliminary objection and dismissed the application for execution.

Back to the application in hand, in their joint affidavit in support of this application, the applicants stated as follows; That seven (7) days after the delivery of the Ruling of the Deputy Registrar they requested to be supplied with the certified copy of the Drawn Order .On 12th April 2022 they wrote another letter requesting to be supplied with the certified copies of the Ruling and proceedings. On 6th July 2022 they were supplied with a copy of the Drawn Order and by that time 60 days had elapsed from the date of the Ruling. Thereafter, their advocate started preparing this application and by 23rd of July 2022 he was done with the preparation of the application. However, the same could not be signed by the applicants on that date since the 3rd applicant resides in Dodoma. Thus, they had to wait for her and upon her arrival in Arusha the application was signed by all applicants and lodged in Court. The applicants annexed to their affidavit copies of the letters for request to be supplied with the Ruling ,Drawn Order and proceedings. Basically, the delay in lodging the intended application for revision is attributed to the delay in obtaining the copy of Drawn Order.

It is a trite law that in an application for extension of time like the instant application , the applicant has to account for the days of delay by giving sufficient cause for the delay. [see the case of **Lyamuya Construction Co.Limited Vs Board of Trustees of Young Women's Christian Association of Tanzania, Civil Application No.2 of 2020, (**unreported)]. In this application , I am satisfied that the applicants have adduced good cause for the delay since a Drawn Order extracted from the impugned Ruling is a necessary attachment in an application for revision.

Thus, it was not possible for the applicants to file any application in the absence of the Drawn Order. Counting from the date the applicants were supplied with the Drawn Order to the date of filing this application, I do not see any inordinate delay in filing this application bearing in mind the time spent by the advocate for the applicants in preparation of this application. I have also taken notice that one the applicant resides in Dodoma as stated in the applicants' joint affidavit.

In the upshot, this application is granted. The applicants are granted twenty one (21) days from the date of this order within which they have to file their application for revision. It is so ordered.

Dated this 28th day of October 2022




B.K.PHILLIP
JUDGE