

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

MISC. Civil APPLICATION NO.12 OF 2021

*(Arising from the High Court OF Dodoma at Dodoma, in Taxation
cause No.16 of 2020 and Misc Civil Application No. 1 of 2018,*

JOBU LAMECK CHIMOMBOAPPLICANT

VERSUS

SOSPETER MAJINGA..... RESPONDENT

RULING

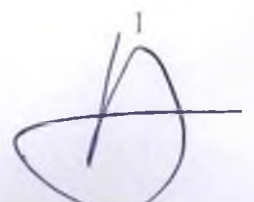
Date of last Order: 27.10.2022

Date of Ruling: 02.11.2022

MAMBI, J.

The applicant filed an application for extension of time to file Bill of costs. In his application supported by an Affidavit the applicant filed an application for an application for an extension of time to file bill of cost arising from Misc.Civil Application No.1 of 2018. In his application, the applicant has prayed to this court to grant his application.

During hearing, the applicant counsel Mr Machibya briefly submitted that his the grounds for the application are found under paragraph 3, 4 and 5 of an affidavit. He argued that the



delay was not deliberate and the applicant was within time before the matter was struck out.

In response, The respondent counsel Mr. Godwin contended that the application has no merit since there is no ground for delay. He argued argument that the proceedings were not supplied in time has no merit since the proceedings were not necessary. He prayed the application to be dismissed.

I have keenly gone through the application supported by an affidavit. The main issue to be determined is whether the applicant has advanced sufficient reasons. In other words, the main legal question to be determined is whether the applicant has properly moved this court in his application and whether there are any good causes for his delay or not.

It is the cardinal principle of law that any party seeks for an extension of time to file an appeal or application out of time he is required to advance sufficient reasons in his affidavit before the court can consider and allow such application. This is the position of the law with and case studies. There are abundance of similar authorities that ha similarly addressed the guiding principle on similar application. In this regard, I wish to refer the decision of the Court of Appeal of Tanzania in **REGIONAL MANAGER, TANROADS KAGERA V. RUAHA CONCRETE COMPANY LTD CIVIL APPLICATION NO.96 OF 2007 (CAT unreported)**. The court in this case observed that;

“the test for determining an application for extension of time, is whether the applicant has established some material amounting sufficient cause or good cause as to why the sought application is to be granted”.

. The court needs to consider an issue as to whether the applicant in his affidavit have disclosed good cause or sufficient reasons for delay. In other words, the court needs to take into account factors such as reasons for delay that where the applicant is expected to account of cause for delay of vey day that passes beyond the aforesaid period, lengthy of the delay that is to shown such reasons were operated for all the period of delay.

Reference can also wish to refer the decision of the court in **BARCLAYS BANK TANZANIA LTD VERSUS PHYLICIAN HUSSEIN MCHENI**; Civil Application No 176 of 2015 Court of Appeal of Tanzania at Dar es Salaam (Unreported) underscored that;

“Among factors to be considered in an application for extension of time under Rule 10 of the Court of Appeal Rules, 2009 are:-

(a) The length of the delay

(b) The reason of the delay – whether the delay was caused or contributed by the dilatory conduct of the applicant?

(c) Whether case such as whether there is a point of law or the illegality or otherwise of the decision sought to be challenged.”

Worth also at this juncture referring the decision of the court in **MEIS INDUSTRIES LTD AND 2 OTHERS VERSUS TWIGA BANK CORP**; **Misc Commercial Cause No. 243 of 2015** (Unreported) where it was held that:

“(i) An application for extension of time is entirely in the discretion of the Court to grant or to refuse it, and that extension of time may only be granted where it has been sufficiently established that the delay was with sufficient cause...”

Looking at the application before this court, the applicant in his affidavit under paragraphs 3,4 and 5 has clearly indicated that he had sufficient reasons for his delay.

My perusal from the records especially affidavit and submission have revealed that the applicant has established that there is a sufficient reasons indicated under paragraphs 3, 4, 5, 6 and 7 of his affidavit. The argument by the respondent that the applicant has not disclosed sufficient grounds have no merit. It appears that the applicant was within time before his matter was struck out by this court. This means that the delay by the applicant was not deliberate.

I also wish to refer the decision of the court **REGIONAL MANAGER TANROADS KAGERA VS RUAHA CONCRETE CO LTD CIVIL APPLICATION NO 96 of 2007**, where the court observed the following:-

*“What constitutes sufficient reasons cannot be laid down by any hard or fast rules. This must be determined by reference to all the circumstances of each particular case. This means **the applicant must place before the court material which will move the court to exercise judicial discretion in order to extend time limited by rules**”(emphasis supplied).*

Similarly, The Court in **TANGA CEMENT AND ANOTHER CIVIL APPLICATION NO 6 OF 2001** clearly held that:

"What amounts to sufficient cause has not been defined. From decided cases a number of factors has to be taken into account including whether or not the application has been brought promptly; the absence of any or valid explanation for delay; lack of diligence on the part of the applicant".

Worth also referring to the decision of Court of Appeal in **MOBRAMA GOLD CORPORATION LTD Versus MINISTER FOR ENERGY AND MINERALS, AND THE ATTORNEY GENERAL, AND EAST AFRICAN GOLDMINES LTD AS INTERVENOR, TLR, 1998** in which the court at **Page 425** held that

"It is generally inappropriate to deny a party an extension of time where such denial will stifle his case; as the respondents' delay does not constitute a case of procedural abuse or contemptuous default and because the applicant" will not suffer any prejudice, an extension should be granted.

I agree with the applicant that he has advanced and presented sufficient reasons for delay and the extent of such delay in his application. I also wish to refer section 14 (1) of the Law of Limitation Act Cap.89 [R.E. 2019] which provides as follows:-

*"14-(1) Notwithstanding the provisions of this Act, the court may, **for any reasonable or sufficient cause**, extend the period of limitation for the institution of an appeal or an application, other than an application for such execution of a decree, and **an application for such extension may be made** either before or after the expiry of the period of limitation prescribed for such appeal or application (emphasis mine)".*

I am of the considered view that this application has merit and this court finds proper the applicant to be granted an extension of time to file an application to file bill of costs.

The applicant shall file his application within 21 days from the date of this ruling.



**MAMBI
JUDGE**

02. 11. 2022

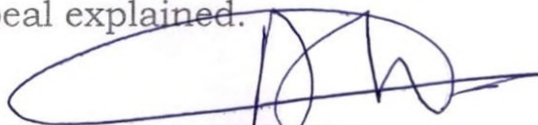
Ruling delivered in Chambers this 2nd day of November 2022 in presence of both parties.



**MAMBI
JUDGE**

02. 11. 2022

Right of appeal explained.



**MAMBI
JUDGE**

02. 11. 2022