

**THE UNITED REPUBLIC OF TANZANIA**  
**JUDICIARY**  
**IN THE HIGH COURT OF TANZANIA**  
**(DISTRICT REGISTRY OF MOROGORO)**  
**AT MOROGORO**

**MISC. CIVIL APPLICATION NO. 03 OF 2021**

*(Originated from the decision of Civil case No. 14 of 2020 at Mikumi Primary Court and Revision No. 08 of 2020 delivered by the District Court of Kilosa at Kilosa on 16<sup>th</sup> day of June 2021 before Hon. MAYAGILO. R)*

**JUMANNE BALAMA..... APPLICANT**

**VERSUS**

**REHEMA MAKUNGA.....RESPONDENT**

**RULING**

*Hearing date on: 25/4/2022*

*Ruling date on: 13/5/2022*

**NGWEMBE, J:**

The applicant being unrepresented, instituted this application for extension of time upon which, he may exercise his right of appeal against the decision of the District Court of Kilosa in revision No. 8 of 2020. Such impugned decision was delivered on 16<sup>th</sup> June, 2021 and this application was filed on 26<sup>th</sup> October, 2021. Substantially, the applicant is seeking extension of time upon which, he may appeal against the ruling of Kilosa District Court.



The content of impugned decision was to the effect of upholding the trial court's decision delivered by Mikumi Primary Court.

Categorically, on the hearing date of this application the applicant, being unrepresented had nothing substantial to submit, rather prayed to rely on the prayers in his chamber summons based on the evidences in his affidavit. However, in his affidavit, the applicant advanced two grounds to support his application for extension of time as indicate in paragraph 3. That he is a lay person, therefore failed to file appeal on time. Also raised the issue of an act of God and that he was not negligent. Again he raised the issue of force majeure due to sickness.

The respondent, did not file counter affidavit before this court, also being not represented, ended up submitting that the application is unfounded but wastage of time, same should be dismissed with costs.

I may begin my consideration by stating the obvious that, it is undoubtedly clear, like a bright day light, that this court has unlimited powers, so to speak, to extend time, so long there is a satisfactory reason or reasonable cause, which prevented him from appealing within time. More so, it is a cardinal principle of law, that though the court has discretional powers to grant or refuse to grant extension of time, yet that powers must always be exercised judiciously.

Of course, this court is always conscious on exercising its discretion, in the absence of reasonable grounds in terms of factual and circumstances warranting extension of time, same cannot be granted, lest will amount into ultra vires exercise of powers or arbitrary exercise of powers.



In respect to this application, the applicant advanced two grounds in his affidavit. One being, the delay was caused by ignorance, therefore failed to file appeal on time. Second, Kilosa District Court failed to supply to him copies of judgement timely. The issue of sickness is pleaded as per attached copy of medical report, Annexure JB-2. However, looking thoroughly on the copy of the medical record attached therein, same was made in year 2016. Unfortunate, such sicksheet does not relate to the case before Kilosa District Court which commenced on 13<sup>th</sup> November, 2020 and ended on 16<sup>th</sup> June 2021. Therefore, the reason that he delayed to appeal due to sickness is incorrect and inapplicable.

On the second reason, the appellant stated that, Kilosa District Court failed to supply him with a copy of Judgement on time. However, records indicate that, the Court delivered its decision on 16<sup>th</sup> June 2021. The applicant in his affidavit stated that he was supplied with the copy of the decision on 12 June, 2021. I think this is an inconsistency to reality. He could not be supplied the said copy before it could be delivered by the trial court. Even annexure JB-1 cannot help him because same is not certified by the drawer and there is no date. In essence the applicant has failed to disclose any reason or good cause for his delay, which may attract this court to exercise its discretionary powers to extend time.

Time immemorial, courts have denied ignorance to constitute a good cause or reason for inaction of any party to the suit. The famous maxim of *ignorantia juris non excusat* applies since its formation to date. Therefore, the applicant cannot plead ignorance as a reason for delay. This position was properly articulated in numerous cases including in the case of

**Valerie McGivern Vs. Salim Farkrudin Balal, Civil Appeal No. 386 of 2019 (CAT).** Also cited the case of **Ngao Godwin Losero Vs. Julius Mwarabu, Civil Application No. 10 of 2015 (CAT)** at page 6 where it was held:-

*"When all is said with respect to the guiding principles, I will right away reject the explanation of ignorance of the legal procedure given by the applicant to account for the delay. As has been held times out of number, ignorance of law has never featured as a good cause for extension of time....."*

Lastly, the court is there to protect a party who is diligent on his rights. Lack of diligence is not a ground for extension of time. This position was rightly held by the Court of Appeal in the case of **Dar es Salaam City Council Vs. Jayantilal P. Rajani, Civil Application No. 27 of 1987** held:-

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

Having so said and done, this application lacks merits same is dismissed with no order as to costs.

**Order accordingly.**

**Dated at Mtwara this 13<sup>th</sup> May, 2021.**



**P. J. NGWEMBE**

**JUDGE**

**13/5/2021**

**Court:** Ruling delivered at Morogoro in Chambers on this 13<sup>th</sup> day of May, 2022 in the presence of the Applicant and in the presence of the Respondent.

**Right to appeal explained.**



**P. J. NGWEMBE**

**JUDGE**

**13/5/2021**