

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(IN THE DISTRICT REGISTRY OF DAR-ES-SALAAM)

AT DAR-ES-SALAAM

CIVIL APPEAL NO. 117 OF 2021

BETWEEN

FATUMA WAZIRI..... APPELLANT

VERSUS

TUWEZESHANE GROUP..... RESPONDENT

JUDGMENT

MRUMA J,

Before me is an appeal against the ruling of Temeke District Court refusing to extend time for the Applicant (ie the present Appellant) Fatuma Waziri to file her appeal to this Court out of time. In its ruling dated 29.4.2021, the District Court found that the Applicant had not shown good cause to warrant court to grant extension.

The Appellant was aggrieved and has appealed to this court. When this matter was called for hearing on 23.2.2022 parties appeared in person. The Respondent (as an entity) appeared by one Rahel Boniface, who introduced herself as secretary of Tuwezeshe group. In the circumstances Court orders the Appeal to be argued by way of written

submissions. However, as I was curious to know legal status of the Respondent (ie TUWEZESHE GROUP), I directed parties together with their submissions for and against the appeal, to address me on the legal status of that entity.

A scheduling order was made for the parties to file their submissions. The Appellant Fatuma Waziri did not file her submissions support her appeal. The Respondent did her submissions to oppose the appeal but did not say anything on the legal personality of TUWEZESHE GROUP.

It is now trite that to filing Written Submissions are tantamount to a hearing of the case and failure to file submissions is equivalent to non – appearance at a hearing or want of prosecution.

In the case of National Insurance Corporation of (T) Limited and Another Vs Shegena Limited Civil Application No. 20 of 2007 (unreported) the Court of Appeal held that;

“The Applicant did not file submission on the due date as ordered. Naturally, the court could not be made important by the party’s inaction. It had to act..... it is trite law that failure to file submissions is tantamount to failure to prosecute one’s case.”

Guided by the above principle, I find and held that the Appellant has failed to prosecute her appeal and proceed to dismiss for want of prosecution.

On the issue of costs because parties have not addressed me on the legal status of the Respondent "TUWEZESHE GROUP" I hesitate to make an order which may not be executable.

Orders accordingly




A.R.Mruma

Judge

24/10/2022

Dated at Dar es Salaam this 24th October 2022.

A.R.Mruma

Judge

24/10/2022