

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF DAR ES SALAAM

AT DAR ES SALAAM

MISC. CIVIL. APPLICATION NO. 137 OF 2022

**(Originating from Civil Case No. 27 of 2019 which was Dismissed on 9th
March 2022)**

BETWEEN

SYKES TRAVEL AGENTS LTD APPLICANTS

VERSUS

NATIONAL IDENTIFICATION AUTHORITY1st RESPONDENT

RULING

MRUMA J,

This is an application to set aside a dismissal order made by this court on 9th March 2022 following the Applicant's failure to appear on the hearing date. The Applicant is now seeking to set aside that order and prays the matter to be heard on merits on the ground that his non-appearance on the hearing date was not deliberate but was due to the fact that he fell sick and had to attend Aga Khan Hospital for treatment (See paragraph 5 of the supporting affidavit). He attached to his affidavit a medical certificate from Aga Khan Hospital indicating that he attended it on

9th March 2022 and was given an excuse from duties for four days from 9th March 2022.

The Respondent is opposing this application on the ground that the Applicant has failed to prove that he was sick when the matter was called for hearing on 9th March 2022. Counsel for the Respondent has submitted that the allegation that the Applicant was sick on 9th March 2022 is an afterthought which lacks substance.

It is trite law that for good and justifiable reason court can set aside its dismissal order. The Respondent is saying that the reason given is an afterthought however he didn't produce any evidence to counter the medical chit from Aga Khan Hospital which was produced in evidence. He could have counter checked with the hospital register to see whether or not applicant did attend as the medical chit would show. Failure to counter the evidence produced leaves the allegations admitted. Therefore find this application to have merits. It is therefore granted and civil case No 27 of 2019 is restored. Each party shall bear own costs.



A handwritten signature in blue ink, appearing to read "A.R. MRUMA", with a long horizontal flourish extending to the right.

A.R MRUMA

JUDGE

12/12/2022