

IN THE HIGH COURT OF TANZANIA  
(DAR ES SALAAM DISTRICT REGISTRY)

**AT DAR ES SALAAM**

MISC. CIVIL APPLICATION NO.137 OF 2019

*(Originating from the High Court of Tanzania Dar es Salaam District Registry at Dar es Salaam Probate Cause  
No. 7 of 2016.)*

**NATIONAL MICROFINANCE BANK PLC.....APPLICANT**

**VERSUS**

**NICAS AUTO CENTER TANZANIA .....1<sup>st</sup> RESPONDENT**

**EYESLOVE URASSA .....2<sup>nd</sup> RESPONDENT**

**RULING**

**MRUMA,J.**

This is an application for extension of time within which the Applicant National Microfinance Bank PLC may file an appeal to this court against the whole of judgment and decree of the Resident Magistrate Court of Dar es Salaam at Kisutu, delivered on 13.9.2018. This application was presented for filing on 19.3.2019 which is over six months after the delivery of the impugned Judgment.

As is the practice, the application is supported by the affidavit of the Applicant sworn by Consolatha Resto its principle office stating grounds upon which the extension is sought.

Section 14 (1) of the Law of Limitation Act [cap 141 RE 2019] provides as follows.

*"Notwithstanding the provision of this Act, the court may for any reasonable or sufficient cause extend the period of limitation for the institution of an appeal or application, other than an application for the execution of a decree, and an application for such extension may be either before or after the expiry of the period of limitation prescribed for such appeal or application". [emphasize mine]*

The reason given for the delays in filing an appeal as expounded in the affidavit of Consolatha Resto are that; first that on 30<sup>th</sup> September 2018 via the services of Maleta and Ndumbaro Advocate they started the process of appeal by requested the copies of judgment and decide which were not supplied till 31<sup>st</sup> January 2019, which was after the expiry of the time of appealing. Second that the period between late November 2018 and early March 2019, the Applicant was adhering to her mandatory internal procedures (tender process) of sourcing a law firm to represent her before this court in prosecuting this application and intended appeal.

The issue for consideration is whether these circumstances leading to the delay constitute sufficient reason within the ambit of section 14(1) of the Law Limitation Act. On my part, I am settled in my mind that in the circumstances, no sufficient or good cause has been shown.

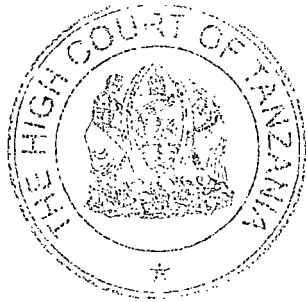
As rightly submitted by the counsel for the Respondent, the Judgment of the lower court was handed down of 13.9.2018, the letter requesting copies of judgment and decree through dated 30.9.2018 ( which was 17 days after delivery of the said judgment) was received in the registry on 26<sup>th</sup> October 2018, which is 43 days after the judgment was delivered.

The Applicant did not explain why the letter which she wrote on 30.09.2018 was received and stamped the court's registry 26 days later. In absence of such explanations and the common practice of delivering request letters to court's registry which is by hand I take it that the said request was presented to the registry on 26.10.2018 which is after the expiry of the appeal period.

Secondly, the law under section 14(1) of the Limitation Act gives two options. The first option is to apply for extension of time before the expiry of the period of limitation prescribed for the appeal or application. This was meant to give the would be applicant an opportunity to make an application where <sup>he/she</sup> feels that for reason surrounding the case he/ she may be late. The second option is to apply after the expiry of the prescribed period of appeal. In my considered view the Applicant has a duty to give reasons why he <sup>she</sup> did not apply before the expiry of the prescribed period ~~as well.~~

Finally the Applicant has also pleaded irregularities and listed four grounds thereof. I have carefully through the grounds of irregularities and I find that they are all matters pertaining to the facts of the case. When a party which on irregularities as a ground for searching extension he must establish procedural faults in handling the matter and not factual faults.

That said, this application is dismissed costs.



  
A.R. Mruma

**Judge**

**25/2/2022**

**25/2/2022**

Coram : Hon. A.R. Mruma,J

For the Applicant : }  
For the Respondent } Absent

Cc : Delphine

**Court:** Ruling delivered in absence of the parties this 25<sup>th</sup> day of February 2022.

Parties should be notified of delivery and given.



  
A.R. Mruma

**Judge**

**25/2/2022**