

**IN THE HIGH COURT OF TANZANIA
TANGA DISTRICT REGISTRY
AT TANGA**

MISC. CIVIL APPLICATION NO. 31 OF 2020

NASSORO RAMADHANI.....APPLICANT

VERSUS

TAHER AMIJEE).....RESPONDENT

(Administrator of the Estates of the Late Jazzer Mohamed)

RULING

Date of RULING- 18/02/2022

Mansoor, J:

The applicant brought an application under Section 14 (1) of the Law of Limitation Act, Cap 89 praying for extension of time to file an application for Revision of proceedings, judgement orders and Decree of Civil Case No. 16 of 2007 finalised by the Resident Magistrate Court of Tanga. The earliest deadline for Applicant to file his application for Revision was at least 30 days after the judgement was delivered.



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Paragraph 6 of the Applicant’s affidavit shows that the suit i.e., Civil Case No. 16 of 2007 was dismissed with costs on 17th April 2008. In paragraph 2 of his affidavit, the applicant states that he was the plaintiff in Civil Case No. 16 of 2007. For other causes set forth in his affidavit, the Applicant asks that this deadline be extended by more than **14 years**.

This case arises from a claim for compensation and this claim was dismissed since 17th April 2007. The applicant delayed for almost Fourteen years, he ought to have filed the application in May 2007.

For easy of reference, I will reproduce Section 14 (1) of the Law of Limitations Act, here under.

“Section 14 (1) of the Law of Limitation Act, Cap. 89 R.E 2002:

Notwithstanding the provisions of this Act, the court may, for any reasonable or sufficient cause, extend the period of limitation for the institution of appeal or application, other than an application for the 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”

Section 14(1) herein above, it is lucidly clear that the court can enlarge time for the institution of either an appeal or an application. Obviously, the present one being an application is not seeking for institution of an appeal but rather an application. Henceforth, logic and legal reasoning dictates and the canons of statutory interpretations affirms that section 14(1) herein above, can be employed to move this court to extend time within which an application for leave to file for Revision can be filed. The provisions contained in Section 14 of the Law of Limitation Act, shall apply only in so far as, and to the extent to which, they are not expressly excluded by such wording. This section is solely used for applications to extend time for filing an appeal or application. This court is therefore properly moved.

The second question is whether the reasons for extension are justified. The specific reasons why an extension of time is

justified are contained in the affidavit of the applicant. That he made several follows of the records, and that the records were missing, and he was advised by Honourable Kamugisha in 2019 to file the application for Revision.

The applicant failed to explain the delay between 17th March 2008 till October 2019, a period of almost Eleven Years, and again he failed to account for each day of delay from October 2019 till 13th July 2020, the day this application was filed in Court. In the case of **Kalunga and company Advocates vs. National Bank of Commerce (2006) TLR** which states basically that matters of extension of time are matters of discretionary powers of the court, and *“where there is inaction or delay on the part of the applicant, there ought to be some kind of explanation or material to enable the Court to exercise the discretion given by Rule 8 of the Court of Appeal Rules.”*

The Applicant ought to have taken active steps from the date Civil Case no. 16 of 2007 was dismissed. If at all the suit was dismissed for want of prosecution, he could have applied for

setting aside the dismissal order before the same court, or if the case was heard on merits, he was supposed to follow the due processes of appeals. The affidavit of the Applicant in support of the application did not contain any explanation on whether the appeal was dismissed for want of prosecution or after hearing the case on merits. The Applicant does not have even a copy of Judgement and Decree, and he has not attached any proof of the existence of Civil Case No. 16 of 2007. The applicant's affidavit did not contain sufficient cause.

In the case of **the Registered Trustees of the Archdiocese of Dar es Salaam vs. the Chairman, Bunju Village Government and 11 others, Civil Appeal No. 147 of 2006**, Msoffe J.A, CA, at page 9, said:

“In giving liberal interpretation to the words “sufficient cause” to this case it will be noted at once that the respondent had no good case on the merits of their intended appeal to the High court. They could not have had good case when, as already stated, they did not apply for leave to appear and defend the

suit in RM’s Court in the first place. If they had wished their starting point really ought to have been to file an application in the RM’s Court for extension of time to file an application for leave to appear and defend. Their application for extension of time to file a written statement of defence was misconceived, to say the least.”

Similarly, in this case, the applicant ought to have applied before the RM’s Court for an order to set aside the dismissal order if the case was dismissed for want of prosecution, or for an appeal if the case was heard on merits. The applicant was not even making diligent follow up of his case at the RM’s court, and this is lack of diligence and inaction on his part, and diligence and inaction cannot be a sufficient cause to grant an extension of time

The emphasis of what constitutes sufficient cause was stated in the case of **Regional Manager, TANROADS Kagera vs. Ruaha Concre Company Limited , Civil Application no. 96 of 2007**, and the case of **Ratma vs Cumarasamy and**

another (1964) 3 All ER, 933 in which Lord Guest had this to say at page 935A-

“The rules of court must, prima facie be obeyed, and in order to justify a court extending the time during which some step in procedure requires to be taken, there must be some material on which the court can exercise its discretion. If the law were, otherwise, a party in breach would have an unqualified right to an extension of time which would defeat the purpose of the rules which is to provide a timetable for the conduct of litigation”

There are no materials at all furnished by the Applicant in this Court to enable the Court to exercise its discretion.

A prayer for extension of time made by the Applicant shall not be granted just as a matter of routine and merely for asking, more so when the period for doing the acts asked for in the chamber summons has long expired, and the Applicant has failed to account for each day of delay. Extension of time may be allowed by way of an exception, for reasons to be assigned

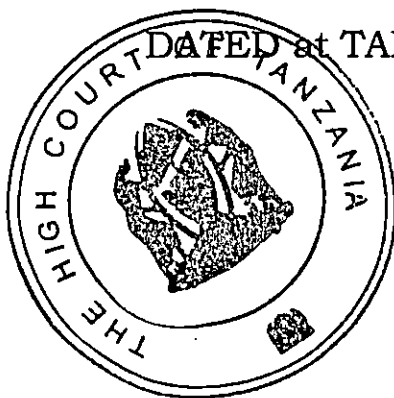
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by the Applicant and also be placed on record in writing, howsoever briefly, by the court on its being satisfied.

I have seen no material placed before the Court showing sufficient cause, and the applicant has failed to account for each day of delay.

For the foregoing reasons and since no good cause is shown, the Applicant's prayer that this Court grant this application for an extension of time to file an application for Revision is not granted.

Application dismissed with costs.



DATED at TANGA this 18TH day of FEBRUARY 2022

A handwritten signature in black ink, appearing to read "L. Mansoor".

L. MANSOOR

JUDGE

18TH FEBRUARY 2022