

**THE UNITED REPUBLIC OF TANZANIA
JUDICIARY
IN THE HIGH COURT OF TANZANIA
(MOROGORO DISTRICT REGISTRY)
AT MOROGORO
MISC. APPLICATION NO. 03 OF 2022**

*(Arising from the judgement of this court in civil appeal No. 35 of 2021 delivered on
10/12/2021 by Hon. Kalunde J)*

NAOMI J. MAKULUSA..... APPLICANT

VERSUS

ALEX SUTA RESPONDENT

RULING

Hearing date on: 27/4/2022

Ruling date on: 10/5/2022

NGWEMBE, J:

Naomi J. Makulusa through her advocate Josephine Mbeni is seeking extension of time within which to file leave to appeal to the Court of Appeal against this court's judgement. Being so determined to appeal against this court's, judgment unfortunate she fall sick as indicated in her affidavit, hence this application for extension of time.

According to the applicant's affidavit paragraph 3 comprised sickness as a sole ground for delay. That she was sick from 6th January, 2022 up to 23rd January, 2022. The attached sick sheet indicates she attended medication on 5th January, 15th January and 21st January, 2022. However, such ground was strongly contested by the respondent in his counter affidavit specifically in paragraph 4 and even in his



submission on the hearing date, he disputed strongly that the applicant was not sick, but a trouble maker determined to disturb and cause trouble to him.

However, the evidence on record indicates that, the applicant was sick as per the sick sheet of St. Francis Referral Hospital. More so, the applicant even if is granted such extension of time, yet has another rough road to undergo, before she can land to the Court of Appeal, that is obtaining leave of this court to appeal against its decision.

At this juncture, this court is called upon to determine extension of time upon which, the applicant may file an application for leave to appeal to the court of appeal. It is evident that the judgement of this court was delivered on 10/12 of 2021, time to apply for leave to appeal to the Court of Appeal is 30 days from the date of judgement. Such period ended on 9/1/2022, thus on 1st February, the applicant was out of time. In the circumstances she requires an extension of time to actualize her intention.

The essentials of time limitation cannot be overemphasized, both the Legislature and in many precedents have exhaustively discussed on same. In simple terms, time limitation is an essential element in every adjudication of dispute. (See the case of **Night Support (T) LTD Vs. Benedict Komba, Revision No. 254 of 2008**) and **Henry Muyaga Vs. TTCL, Application No. 8 of 2011**.

Undoubtedly, time limitation is a material fact, which must be observed and strictly complied with. When delay is caused by good cause or illegality of the impugned judgement is observed, and upon sufficient cause, extension of time may be granted. In fact, extension of



time is a discretionary power of the court upon being satisfied that indeed the applicant was prevented by a sufficient cause.

In respect to this application, the applicant is seeking extension of time to lodge an application for leave to appeal to the Court of Appeal. The sole reason for such delay was sickness encountered from 6th January, 2022. Such reason may constitute good cause for extension of time.

Accordingly, I hereby invoke my discretionary powers to grant the prayer for extension of time, and proceed to order the applicant to actualize her intention within 14 days from the date of this ruling. Each party should bear his/her own costs.

I accordingly order.

Ruling delivered in chambers this 10th day of May, 2022



P.J. NGWEMBE

JUDGE

10/5/2022

Court: Ruling delivered in chambers on this 10th day of May, 2022 in the presence of Josephine Mbewa Advocate for the applicant and in the presence of the respondent.

Right to appeal to the court of appeal explained.



P.J. NGWEMBE

JUDGE

10/5/2022