

**THE UNITED REPUBLIC OF TANZANIA
IN THE HIGH COURT OF TANZANIA**

LABOUR DIVISION

MISC. LABOUR APPLICATION NO. 442 OF 2022

(Arising from the Award of the Commission for Mediation and Arbitration of Dar es Salaam dated 25th August 2022 before the Hon. Kiwelu - Arbitrator, in Labour Dispute No. CMA/DSM/KIN/123/21/25/21 and the Judgment of this Court dated on 25th August 2022, before Honourable B.E.K Mganga - J in Revision Application No. 201 of 2022)

PAUL PHILIMON SEMINDE1ST APPLICANT
GRASIANO LINGO.....2ND APPLICANT
AMANDA ISSA 3RD APPLICANT
TAUSI OMARY4TH APPLICANT
TATU SALUM MZUZURI5TH APPLICANT
HADIJA BINDE6TH APPLICANT
VERONICA MODESTUS MAYOYELA7TH APPLICANT
BAHATI RASHIDI8TH APPLICANT
SHANI MTAKIE9TH APPLICANT
SOPHIA MTALIMWA10TH APPLICANT
VERONICA GEORGE ISSA11TH APPLICANT
DOTTO MWENDA12TH APPLICANT
ZUHURA MOHAMED MPULINGA13TH APPLICANT
ASHA R. CHAMBUSO14TH APPLICANT
FATMA JULIUS15TH APPLICANT
HAMISI MWARABU.....16TH APPLICANT
LETIANA KIMULI MWAJUMA HASHIM.....17TH APPLICANT
HAMZA FITINA18TH APPLICANT

VERSUS

ALISAAR INDUSTRIES COMPANY LIMITEDRESPONDENT



RULING

K.T.R, MTEULE, J

29TH March 2023 & 27TH April 2023

This Ruling concerns an application for extension of time to lodge an Application for Revision against the decision of the Commission for Mediation and Arbitration of Dar es Salaam (CMA) in **Labour dispute No. CMA/DSM/KIN/123/21/25/21**. The Applicants were complainants in that Labour dispute claiming their employment to have been unfairly terminated by the Respondent. Their labour dispute was dismissed in the CMA for being time barred. Being dissatisfied by the dismissal of their Labour Dispute, the Applicants preferred a revision before this court, which was registered as **Revision Application No. 201 of 2022**. This Revision Application was dismissed as well for having been filed out of time.

Still determined to pursue the revision, the Applicants have lodged this Application seeking for extension of time to lodge the said revision which is already dismissed. The Respondents did not appear hence the Application proceeded ex parte by written submissions.



In the Applicants' affidavit and submissions, it is apparent that, **Revision Application No. 201 of 2022** which was before Hon. Mganga, J, suffered dismissal due to time limitation. It is already an established principle that once a matter is dismissed, it cannot be refiled as the court becomes barred by the principle of res judicata. This principle is a call to the parties to be keen to time when dealing with matters in court. It reminds me of the position recited in the case of **Barclays Bank Tanzania Limited vs Phylisiah Hussein Mcheni (Civil Appeal 19 of 2016) [2021] TZCA 202** where the Court of Appeal held:-

*"In this case one of the cases cited to us by the appellant's counsel is **John Cornel v. A. Grevo (T) Ltd, Civil Case No. 70 of 1998 (unreported)** where Kalegeya, J (as he then was) made this statement which we adopt: -*

"However unfortunate it may be for the plaintiff, the Law of Limitation, on actions, knows no sympathy or equity. It is a merciless sword that cuts across and deep into all those who get caught in its web", (emphasis supplied).



On the basis of that statement, the law of limitation knows no equity, and we subscribe to that."

The above statement cements the position that once a matter is dismissed due to limitation of time, the order of dismissal becomes conclusive to the matter.

Since the previous matter was dismissed, this court lacks jurisdiction to entertain it once again since the Applicants have lost opportunity to refile it. It is on this basis I hereby dismiss the Application for seeking extension of time to file a matter already barred by re-judicata. No order as to costs. It is so ordered.

Dated at Dar es Salaam this 27th Day of April 2023



A handwritten signature in blue ink, appearing to be 'Rf' or similar, positioned above the printed name.

KATARINA REVOCATI MTEULE

JUDGE

27 /04/ 2023