

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LABOUR DIVISION)**

AT ARUSHA

MISCELLANEOUS APPLICATION NO. 77 OF 2022

**(C/F Taxation cause No. 6 of 2021, Execution No. 90 of 2021, Original
CMA/ARS/62/2021)**

JOSEPH NJIKU.....1ST APPLICANT

SG NORTHEN ADVENTURES LTD.....2ND APPLICANT

VERSUS

PAUL FANUEL PAUL T/A ADVANCED

CREDIT RECOVERY CO. LTD..... RESPONDENT

RULING

22/02/2023 & 22/02/2023

MWASEBA, J.

This is uncontested application for extension of time to file a reference against the respondent out of time. The application is brought under Order 8 (1) and (2) of the Advocate Remuneration Order, G.N No. 263 of 2015. It was supported with an affidavit sworn by Ms Mercy Richard Mwakatundu, learned counsel for the 2nd applicant herein.

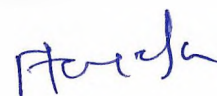


In her affidavit supporting the application, the learned counsel for the 2nd applicant averred that the reason for their late filing of the application was the late supply of the certified copies of Ruling and proceedings by the court. Further to that, the affidavit revealed that a ruling was delivered on 04/11/2022 but copies were supplied to them on 07/12/2022 after having several follow ups.

When the application was called for mention on 22/02/2023, the learned counsel for the respondent, Ms. Winnie Evarest told the court that they have no intention to challenge the application as each day of delay has been accounted for. On her side, Ms Mercy Mwakatundu learned counsel for the 2nd applicant prayed for the application to be granted.

Having gone through the affidavit and the submissions from the parties, it is not disputed that the ruling subject for the reference was delivered on 04/11/2022 but copies were supplied to them on 07/12/2022 that means they received the documents after the lapse of 34 days. **Order 7 (2) of the Advocates Remuneration Order** stipulates that:

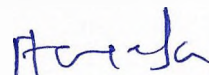
"A reference under order (1) shall be instituted by way of chamber summons supported by an affidavit and be filed within 21 days from the date of the decision".



Indeed, the copies of ruling were received out of the prescribed time for filing their application for reference. It is trite law that in an application for extension of time to file reference or any other application of the like, the applicant must show good cause for failing to do what was supposed to be done within the prescribed time. This was well stated by the Court of Appeal in the case of **Abdallah Salanga & 63 Others vs Tanzania Harbours Authority**, Civil Reference No. 08 of 2003 and **Daudi S/O Haga vs Renatha Abdon Machagfu**, Civil Reference No. 1 of 2000 (CAT-Mwanza) (both unreported).

In this application the applicant has well shown sufficient reason for failing to file their application within the prescribed time as they were availed with the copies of ruling after the expiry of 21 days. And soon after receiving the copies they filed an application for extension of time. Thus, I concur with the counsel for the respondent that they have accounted for each day of delay and so they deserve for this application to be granted.

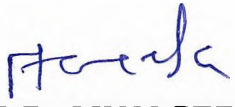
Consequently, I find this application to be meritorious and the same is hereby granted. The applicant is granted 21 days from the date of this ruling to lodge her reference. Parties are ordered to bear their own costs.



It is so ordered.

DATED at **ARUSHA** this 22nd day of February, 2023.




N.R. MWASEBA

JUDGE

22/02/2023