

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB-REGISTRY OF MWANZA
AT MWANZA**

MISC. CIVIL APPLICATION NO. 75 OF 2023

(Originating from Civil Appeal No. 43 of 2022 before District Court of Nyamagana)

WISANDARA WARIOBA..... APPLICANT

VERSUS

PUNUNTA'S COMPANY LIMITED..... RESPONDENT

RULING

18th July & 21st July, 2023

Kilekamajenga, J.

Through the chamber summons, Wisandara Warioba (the applicant herein) moved this court under section 44(1)(a)(b) of the Magistrate Courts Act Cap 11 RE 2019 together with section 14 (1) of Law of Limitation Act Cap 89 RE 219. He prayed for extension of time to file the appeal to this court. His application is accompanied with an affidavit sworn by Wisandara Warioba. The applicant's reasons for extension of time are given under paragraph 4 to 8 of the affidavit. In his affidavit, the applicant alleged to have been attending his sick brother who was admitted at Bugando Hospital. On the date of hearing the application, it was revealed that, the respondent refused to receive the summons. As a result, the court ordered the hearing of the application to proceed in absence of the respondent. In his brief oral submission, the applicant who was unrepresented submitted that, he failed to lodge his appeal on time as his brother fell sick and he was admitted at Bugando



Medical Hospital. He further informed the court that, his brother was operated and therefore needed close attention. He prayed for the application to be allowed for him to file the appeal.

In determining whether this application has merit, this court has to consider whether the applicant has advanced sufficient reasons to warrant this court to extend time for him to lodge his appeal. Before the court grants extension of time, the applicant must advance sufficient cause or good reason for the delay. See, the cases of **Kabdeco v. Wetcu Limited**, Civil Application No. 526/11 of 2017; **Stephen Ngalambe v. Onesmo Ezekia Chaula & Another**, Civil Appeal No. 27 of 2020; **Samwel Kobelo Muhulo v. National Housing Corporation**, Civil Application No. 302/17 of 2017. The applicant has stated in his affidavit and his oral submission that he could not file his appeal on time as he was attending his brother who was admitted at Bugando Medical Center. Going through his affidavit and its annexures, it is my opinion that, the applicant had urgent matter to attend which prevented him from filing the appeal in time. It is the court's discretion to grant or deny the extension of time. In this case, I am satisfied that the applicant has adduced sufficient reason to warrant this court to enlarge time to file the appeal. I allow the application and order the applicant to file the appeal within 30 days from the date of this order. No order as to costs. Order accordingly.

DATED at **Mwanza** this 21st day of July, 2023



Ntemi N. Kilekamajenga.
JUDGE
21/07/2023



Court:



Ruling delivered this 21st July 2023 in the presence of the applicant but in the absence of the respondent. Right of appeal explained.



Ntemi N. Kilekamajenga.
JUDGE
21/07/2023

