

**THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
DAR ES SALAAM SUB-REGISTRY**

MISC. CIVIL APPLICATION NO. 244 OF 2022
*(C/F Execution No. 68 of 2021, in the High court of Tanzania, Dar es Salaam-Sub
Registry)*

FINCA MICROFINANCE BANK LTD APPLICANT

VERSUS

PETER MAKANJI..... RESPONDENT

RULING

Date of last Order:7-2-2024

Date of Ruling: 16-2- 2024

B.K.PHILLIP, J

The applicant herein moved this court under section 14 (1) of the Law of Limitation Act and section 95 of the Civil Procedure Code Cap 33 R.E 2019, seeking for extension time to file Bill of Costs in the respect of the ruling delivered on 31st March 2022 in Execution No. 68 of 2021, in which the applicant was a judgment debtor. The aforesaid Execution No.68 of 2021 was dismissed with costs for want of prosecution.

This application is supported with an affidavit sworn by Mr. Beatus Malawa, the applicant's principal officer.

A brief background to this application as per records is that the respondent herein was a decree holder in Misc. Civil application No.68 of 2021. He applied for execution No. 68 of 2021 against the applicant herein. When

the aforesaid Execution No. 68 of 2021 was called for a hearing, the respondent did not enter an appearance in court, consequently, the application for execution was dismissed with costs for want of prosecution. The applicant intended to file her Bill of Costs but could not file it within the prescribed time by the law, hence this application.

On the hearing date of this application, the applicant was represented by Mr. Edson Mzanda, a learned advocate, who appeared for the applicant. The advocate for the respondent did not show up, although he was aware of the hearing date. So, I ordered the hearing of the application to proceed ex parte against the respondent.

Submitting in support of the application, Mr. Mazanda pointed out that Order 4 of the Advocates Remuneration Order, 2015, provides that a Bill of Costs has to be filed within 60 days from the date of the order awarding costs. He went on to submit that a Bill of costs has to be accompanied with the court Order awarding the costs. He pointed out that upon the dismissal of the aforementioned application for execution, he immediately wrote a letter requesting to be supplied with the court order but his letter was not replied to. He sent a reminder letter but there was no response. Finally, on 9th June 2022, he was supplied with the court order. By that, 69

days from the date of the court order had lapsed. Therefore the time for filing the Bill of Costs had already expired. Thus, he was compelled to apply for an extension of time to lodge his bill of costs.

It is trite law that in an application of this nature the applicant is required to account for the days of delay. Having dispassionately analyzed the arguments made by Mr. Mazanda as well as perused the affidavit in support of this application, in my considered view this application has merit as I shall elaborate hereunder.

As correctly submitted by Mr. Mazanda, the Bill of Costs has to be filed in court within 60 days from the date of the order awarding costs and has to be accompanied with a copy of the order awarding the costs. In this matter, the applicant order awarding costs was delivered on 31st March 2022. According to the letter that is annexed to the applicant's affidavit, on 4th April 2022, the applicant requested to be supplied with a certified copy of the court order. It is on record that the certified copy of the court order was issued on 7th June 2022. Under the circumstances, I agree with Mr. Mazanda that by the time the 60 days for filing the Bill of Costs had already lapsed. The applicant has deponed that he was supplied with the court order on 9th June 2022, I have noted that this application has been filed

without undue delay. the certified copy of the court order was issued 60 days had already lapsed.

From the foregoing, I am satisfied that the applicant has adduced sufficient cause for delay to warrant this court to grant the order sought in this application.

In the upshot, this application is granted. The applicant shall file the Bill of Costs within fourteen (14) days from the date of this Ruling.

Date this 16th day of February 2024




B.K. PHILLIP

JUDGE