

IN THE HIGH COURT OF TANZANIA

(COMMERCIAL DIVISION)

AT DAR ES SALAAM

MISC. COMMERCIAL APPLICATION NO. 02 OF 2022

(Arising from Civil Appeal No. 3 of 2020 Before Hon. C.P. Mkeha, J)

BETWEEN

HAMISI MUSSA MALYUNGAAPPLICANT

VERSUS

MWANANCHI INSURANCE CO. LTDRESPONDENT

Date of last order: 13th May, 2022

Date of Ruling: 13th May, 2022

RULING

MKEHA, J

On 20/10/2021, Commercial Appeal No. 3 of 2020 was struck out for want of prosecution. Then on 20/12/2021 the present application was filed under section 14 (1) of the Law of Limitation Act seeking enlargement of time for filing appeal out of time against judgment and decree of the Resident Magistrate's Court of Dar es Salaam at Kisutu, dated 15th October, 2020. The application was not contested because of non appearance of the

respondent even after publication of summons through Mwananchi News Paper dated 18/02/2022.

When the application was called for hearing, Mr. Mohamed Manyanga learned advocate represented the applicant. He commenced his submissions by adopting contents of the applicant's affidavit as part of his submissions. According to the learned advocate, the applicant was diligent in taking steps which enabled him to prefer the first appeal timely. The learned advocate submitted that the applicant obtained a copy of the court's order which struck out the first appeal on 18/11/2021. This is also reflected in paragraph 10 of the applicant's affidavit.

The affidavit contains nothing as a reason for failure to take essential step since when the applicant obtained copies of proceedings and court's order to the time the present application was filed i.e on 20//12/2022.

The only issue for determination is whether the applicant has assigned sufficient reasons for the delay. It is not disputed that the applicant delayed filing the present application for about 32 days. There was not even a slightest attempt to explain for the delay. In applications of this nature the position is strict to the extent that delay of even a single day

has to be accounted for See: **Bushiri Hassan Vs Latifa Lukio Mashayo, Civil Application No. 192 of 2016, CAT** (Unreported).

For the foregoing reasons, I am bound to hold that the applicant has failed to give sufficient reasons for the delay. I thus dismiss the application for want of merit.

DATED at DAR ES SALAAM this 13th day of May, 2022.




C.P. Mkeha

Judge

13/05/2022

Court: Ruling is delivered this 13th day of May, 2022 in the presence of the applicant.




C.P. Mkeha

Judge

13/05/2022