

IN THE HIGH COURT OF TANZANIA
LABOUR DIVISION
AT DAR ES SALAAM

MISCELLANEOUS APPLICATION NO. 674 OF 2019

BETWEEN

WHIPAZ.....APPLICANT

VERSUS

AMINA SALUM.....1ST RESPONDENT

ZAINABU HUSSEIN.....2ND RESPONDENT

PENDO AKO.....3RD RESPONDENT

RULING

Date of Last Order: 18/11/2020

Date of Ruling: 14/12/2020

Z.G. Muruke, J.

Applicant filed application for extension of time to file revision. Reasons are stated in paragraph 5,6,7,8,9 and 10 of affidavit sworn by Said Mavumbi Human Resource Manager and principal officer.

Respondent filed counter affidavit to object prayers sought, sworn by their representative Abraham John Mkinda, Assistant Regional Secretary TUICO, Coast Region. Reason stated at paragraph 6,7,8 and 9 is that, they made follow-up of the order granted them with 14 day to file revision following the first revision to be struck out, but could not be given. Applicant's Principal officer outlined dates he made follow-up from 24th July,

2019, to 06th August, 2019. Upon failure to get the order, applicant filed revision without attaching the order, same was rejected by registrar.

From affidavit in support of the application, there are two reasons **one**, failure to get copy of the order of the first revision that was struck out **two**; applicant being religious institution in which their activities depend on donors fund, they were waiting for the money to pay advocates who started dealing with the application.

Respondent representative, objection is on contradicting reasons for delay. It is true, there are two contradictory reasons for delay, as shown above. While paragraph 5 to 9 speaks of failure to get copy of the order granted applicant 14 days leave being reason of delay, at paragraph 10 reason is said to be waiting for donor funds to pay advocates as reasons for delay. What is stated at paragraph 10 is totally different with what is stated at paragraph 6,7,8 and 9, of affidavit in support.

With due respect to applicant averment and submission, **one** there is no explanation on the dates mentioned at paragraph 6 where, applicant counsel was making a follow-up for the order. **Two**; no place or name of person mentioned that applicant was making a follow-up and replay. **Three**, there is no any letter, written to ask for copy of the order if any attached to the affidavit in support. **Four**, there is no any evidence attached to prove that registrar rejected the application that was filed out of time. Failure to comply with four requirement for reasons stated at paragraph 5,6,7,8 and 9 cannot be believed. Assuming without believing paragraph 10 alone, is reason stated by applicant, yet, being religious stated institution that depend on donor fund, is not sufficient reasons to

justify delay. Equally, applicant had no money to pay her advocate is not sufficient cause. In the eyes of law, impecuniosity of litigant who seeks extension of time is not sufficient cause. Court of law, know nothing about impecuniosity of parties as reason for extension of time. Under Rule 56(1) GN 106/2007, extension can be granted upon sufficient cause. In the case at hand not only applicant advanced contradictory reasons, but either of the two, not sufficient to justify extension sought.

A number of cases has discussed on what amounts to sufficient or good cause, that includes the Court of Appeal case of **John Mosses and Three Others Vs The Republic, Criminal Appeal No. 145 of 2006** when quoting the position of that court in the case of **Elias Msonde Vs. The Republic, Criminal Appeal No. 93 of 2005** it was held that:-

"We need not belabor, the fact that it is now settled law that in application for extension of time to do an act required by law, all that is expected by the applicant is to show that he was prevented by sufficient or reasonable or good cause and that the delay was not caused or contributed by dilatory conduct or lack of diligence on his part".

Also in the case of **Blue Line Enterprises Ltd v East African Development Bank**, Misc. Application No. 135 of 1995, (unreported) the Court held that:-

"...it is trite law that extension of time must be for sufficient cause and that extension of time cannot be claimed as of right, that the power to grant this concession is discretionary, which discretion is to be exercised judicially, upon sufficient cause being shown which has to be objectively assessed by Court."

Court of appeal in the case of **Tanzania Fish Processors Ltd v Christopher Luhangula**, Civil Appeal No 161/1994, CAT at Mwanza held that:-

"the question of limitation of time is fundamental issue involving jurisdiction...it goes to the very root of dealing with civil claims, limitation is a material point in the speedy administration of Justice. Limitation is there to ensure that a party does not come to court as and when he chooses".

Having carefully gone through the parties submissions, records from CMA to this court, and relevant laws, this court is to determine; "Whether the applicant had sufficient cause to justify the grant of condonation."

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More so, reasons stated at paragraph 10 of affidavit in support of application that applicant being religious institutions depend on donor funds, so they were waiting for donor to give money to be able to pay advocates to initiate proceedings, this is a U-turn, made by applicant principle office on the reason for extension of time. Contrary to what has been averred in paragraph 5,6,7,8 and 9 of affidavit in support of the application. Extension of time cannot be granted on speculative reasons. Accordingly, application dismissed for lack of sufficient cause.


Z.G. Muruke

JUDGE

14/12/2020

Ruling delivered in the presence of Migiri Migire holding brief of Saiwello Kumwenda for applicant and Amina Salum and Zainabu Hussein respondents in person.



Z.G.Muruke

JUDGE

14/12/2020

Labour Court TZ.