

**IN THE HIGH COURT OF TANZANIA**

**LABOUR DIVISION**

**AT DAR ES SALAAM**

**MISCELLANEOUS LABOUR APPLICATION NO. 193 OF 2021**

*(Arising from the Commission for Mediation and Arbitration of Dar es Salaam at  
Ilala in Labour Dispute No. CMA/DSM/KND/R.411/13  
dated 30<sup>th</sup> day of December 2015)  
(A. Msuri: Arbitrator)*

**BETWEEN**

**VENTURE RISK MANAGEMENT.....APPLICANT**

**VERSUS**

**JACKSON ERNEST MBWILE.....RESPONDENT**

**RULING**

**16<sup>th</sup> June 2022 & 28<sup>th</sup> June 2022**

**K. T. R. MTEULE, J.**

This is an application for extension of time to file revision application to challenge the decision of the Commission for Mediation and Arbitration of Dar es Salaam, Kinondoni. The decision was issued on 30<sup>th</sup> December 2015. In the CMA, the Respondents were awarded TZS 72,000,000 which ought to be paid to the instant Respondent.

It is deponed in the affidavit supporting this application that after the CMA award, the Applicant instructed her counsel one Hilal H. Rashid to pursue a revision to challenge the CMA decision. It is further

deponed that to her surprise, on 13<sup>th</sup> May 2021, the Applicant received a 14 days' notice to pay the awarded amount to the Respondent, failure of which to result into attachment and sale of her property. According to the statement of the affidavit, the Applicants started to trace their advocate to check the status of the Revision they agreed to file but the counsel was no where to be found hence the Applicant decided to engage Advocate Richard Mbuli who filed this application seeking for extension of time.

The Respondent could not be found to respond to the Application. The normal process of service proved futile hence substituted service by publication was made, but still the Respondent did not appear. On this reason, the matter proceeded ex-parte by a way of written submissions.

Apart from the reason of miscommunication between the Applicant and her counsel, another ground advanced by the Applicant in seeking this extension of time is illegality. It is in the Applicant's submissions that, the extension of time is sought to challenge the illegality of the CMA award which was issued against the Managing Director instead of the Company which has legal capacity to sue and be sued which the Respondent used to work with. According to the

Applicant's counsel, illegality of decision is a good cause to extend time to allow the said decision to be challenged and the illegality corrected by the higher court. In supporting his averment, the counsel cited the cases of **Principal Secretary Ministry of Defence and Notional Service Vs. Devram Valambia [1991] TLR 387, VIP Engineering and Marketing Limited and 2 Others versus Citibank Tanzania Limited Consolidated Civil References No. 6, 7 and 8 of 2006, (CA)**. The Applicant quoted the following words from **VIP Engineering**:-

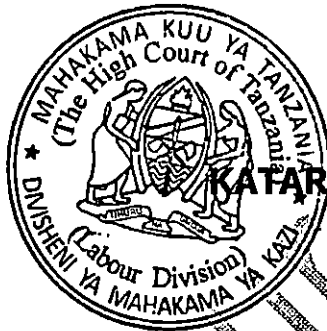
*"It is therefore settled law that a claim of illegality of the challenged decision constitute sufficient reasons for extension of time under rule of regardless of whether or not a reasonable explanation has been given by the Applicant under the rule to account for the delay."*

I have considered the submission of the Applicant. I agree that it is the position of our Court of Appeal that illegality, if established, constitute a good cause to grant extension of time as per the **Valambia's case** and the **VIP Engineering case**, both cited supra. The applicant is asserting that at CMA, the applicant sued a wrong party respondent in the CMA. If this is sufficiently established, it

constitutes illegality. To establish it, it is appropriate for a revision to be lodged to give this court an opportunity to determine the asserted illegality. It is on this reason I find the application with merit.

From the foregoing, I allow the extension of time to file revision application against the decision of the CMA. The said revision to be filed within seven working days from the date of this decision.

Dated at Dar es Salaam this 28<sup>th</sup> day of June, 2022.



**KATARINA REVOCATI MTEULE**  
**JUDGE**

**28/06/2022**