

IN THE HIGH COURT OF TANZANIA
IN THE DISTRICT REGISTRY
AT MWANZA

MISCELLANEOUS CIVIL APPLICATION NO. 21 OF 2020

(Arising from Bill of Costs No. 36 of 2019 of the High Court of Tanzania at Mwanza)

HALIMA WAKARA 1ST APPLICANT

ZUHURA WAKARA 2ND APPLICANT

CHANGWE CHARLES KIBHIBHI (Administrator of the
estate of the late Maburi Kitanda Saidi) **3RD APPLICANT**

VERSUS

JEREMIAH M. MKAMA RESPONDENT

RULING

27 & 29.05.2020

RUMANYIKA, J.:

The application is for extension of time within which Halima Wakara and two (2) others (the applicants), with respect to impugned ruling of 04/11/2019 of the Taxing officer to apply for reference. It is supported by joint affidavit of Halima Wakara, Zuhura Wakaara and Changwe Charles Kibhibhi who is the administrator of the estate of the late Maburi Kitanda Saidi (the 1st, 2nd and 3rd applicants) respectively whose contents they adopted during the hearing. Like the applicants, Jeremiah M. Mkama (the respondent) appeared in person.

When the application was called on 27/5/2020 for hearing, following global outbreak of the Coronavirus Pandemic, and pursuant to my order of 23.04.2020 the parties were present online (mobile

numbers 0755380901, 0763480328, 0763480328 and 0784547292) respectively I heard them by way of Audio Teleconferencing.

On behalf of his fellows and himself the 3rd applicant submitted that although the ruling had been reserved for 28/10/2019, due to the Taxing officer's transfer therein between it was adjourned two times until now to their surprise the respondent's advocate served them on 08/3/2020 with a notice of shs. 900,000/= taxed bill hence the instant application. That they should have applied for reference within the first twenty one (21) days of the impugned ruling. That previously they had withdrawn their application with costs yes, but the bill of costs taxed at 900,000/= it hadn't been sufficiently proved.

The respondent only submitted that the application was unfounded because the applicants had assigned no sufficient reasons for the delay. That the applicants habitually defaulted and now they were only playing delaying tactics.

The issue, and it is trite law is whether the applicants had sufficient grounds for the delay the answer is no. Following transfer of the Taxing Officer, therefore late in the day, but after several follow ups the applicants may have been aware of the impugned ruling say months later that is on 21.02.2020 yes, but without explanation they lodged the present application say 25 (twenty five) good days later on 16th March, 2020. In other words contrary to the law (Case of **Lyamuya Construction Company Ltd V. Board of Registered Trustees of Young Women's Christian Association of Tanzania**, Civil Application No.2 of 2010 CA, (unreported) the applicants did not account for each day of the 20 plus days delay.

Secondly, the applicants may have, within time or not been aware of, and therefore were supplied with the copies late in the day yes, but they did not in their supporting affidavit or even in oral submissions state when exactly they got copy of the impugned ruling leave alone their failure to append to the application a copy of receipt if at all upon receiving the copy they paid the requisite fees. Even if they were late for a single day without giving sufficient explanation for the delay the application for extension of time is considered an after thought.

The application is dismissed with costs .It is ordered accordingly.

Right of appeal explained.

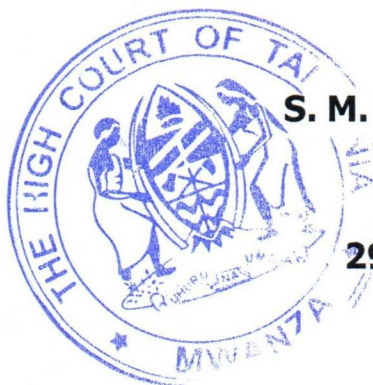


S. M. RUMANYIKA

JUDGE

29/5/2020

It is delivered under my hand and seal of the court in chambers this 29th May, 2020 in absence of the parties with notice.



S. M. RUMANYIKA

JUDGE

29/5/2020