

THE UNITED REPUBLIC OF TANZANIA

JUDICIARY

IN THE HIGH COURT OF TANZANIA

MBEYA DISTRICT REGISTRY

AT MBEYA

MISCELLANEOUS APPLICATION NO. 24 OF 2022

(Originating from District Court of Momba at Chapwa Civil Case No. 2 of 2022)

EFFICIENT FREIGHTERS (T) LIMITED APPLICANT

VERSUS

AXIOM TRANSPORT LIMITED RESPONDENT

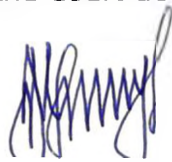
RULING

15/08/2022

NGUNYALE, J.

By way of chamber summons supported by an affidavit the applicant is praying for the following orders; -

- 1. That this Court be pleased to grant extension of time within which to file an application for revision against the decision of the District Court of Momba at Chapwa in Civil Case No. 02 of 2022 dated 13th June, 2022 before T. A. Lyon- SRM.*
- 2. Any other order (s) or relief that the Court deems fit to grant.*



The application was filed under section 14 (1) and (2) of the Law of Limitation Act Cap 89 R. E 2019 and section 95 of the Civil Procedure Code Cap 33 R. E 2019 also supported by an affidavit dully sworn by Lucky Mgimba an advocate of the applicant dully instructed to swear an affidavit for her.

In the affidavit he deponed that they filed Civil Case No. 32 of 2022 which ended by being struck out on 13th June 2022 following upholding the defendant's preliminary objection. They were dissatisfied with the decision of the trial Court so they intended to apply for revision. They requested copies of the ruling, orders and documents thereto. Those documents were not served on time besides several physical follow up. The ruling and drawn order were served to the applicant on 16th July, 2022. At the time of being served with those documents time for filing revision had already lapsed. He prayed the court to grant the application.

Today when the application was called for hearing the respondent was represented by Mr. Zege who was holding brief for advocate Mlyambilele with instruction to proceed. Mr. Zege in his brief submission stated that they have not filed counter affidavit to resist the application, he prayed the Court to grant the application without costs. Mr. Luka Ngogo learned

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Counsel for the applicant conceded to the position submitted by the respondents.

The Court has read the contents of an affidavit and found that the applicant filed an application seeking extension of time because they delayed to be availed copies of ruling and drawn order. It is a settled law that extension of time is grantable at the discretion of the court upon meeting conditions set in law and practice. Those conditions were stipulated by the Court of Appeal in a landmark case of **Lyamuya Construction Company Limited vs Board of Trustees of YMCA**, Civil Application No. 2 of 2010, CAT (unreported) in which one of the conditions is that if the court feels that there are sufficient reasons.

In the case at hand the applicant has deponed that he delayed to file an application for revision because he delayed to be supplied with copy of ruling and drawn order. Delay to be supplied with those documents necessary for appeal or revision purpose is a sufficient reason for granting the application. Therefore, the Court has good cause to exercise its judicial discretion to grant the application as prayed by the applicant and conceded by the respondent.

In the end result, the Court has been satisfied that the applicant has demonstrated sufficient cause to warrant grant of the application the fact

which made the respondent even to refrain from resisting the application.

The application is hereby granted, no order as to costs.

Dated at Mbeya this 15th day of August 2022.





D. P. Ngunyale

Judge