IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(LAND DIVISION)

AT DAR ES SALAAM

MISC. LAND CASE APPLICATION NO. 455 OF 2023

NASOR HAMIS NASOR ..... APPLICANT

VERSUS

REGINA ISHEMWABURA ..... RESPONDENT

Date of last Order: 08/09/2023

Date of Ruling: 02/11/2023

RULING

I. ARUFANI, J

The applicant filed the instant application in this court under section 14 (1) of the Law of Limitation Act, Cap 89, R.E 2002 seeking for extension of time within which he can file in the court an application for review of the decision of this court delivered in Land Case No. 47 of 2014 dated 8th June, 2023. The application is supported by an affidavit of the applicant and it is opposed by the counter affidavit sworn by the respondent.

While the applicant was represented in the matter by Mr. Salum Hamis Nasoro the respondent was represented by Mr. Joseph Rutabingwa, learned advocate. By consent the application was argued by way of written submissions. It is stated in the submission of the applicant that, the applicant is seeking for extension of time within which he can apply for review of the ruling of the court dated 8th June, 2023 which disqualified the counsel for the applicant to represent him in the matter.

It was argued by the applicant that, the decision of the court to disqualify the counsel for the applicant to represent him in the matter is illegal as it is against the doctrine of judicial precedent whereby the lower court is bound by the decision of the superior court. He said the ruling of the court is illegal for containing a downright falsehood submitted by the counsel for the respondent. It was submitted the sought extension of time is vital for the purpose of rectifying the aforesaid illegalities. It was further submitted that the counter affidavit of the respondent is false and contain facts intended to mislead the court.

The applicant argued that, the documents filed in the Court of Appeal by the applicant and the respondent shows the respondent was fully aware that Advocate Henry Kitambwa works with Hamza & Co. Advocates but the counsel for the respondent never raised any objection and the appeal proceeded as usual. He argued the counsel for the respondent cannot say that he came to learn that advocate Kitambwa works with Hamza & Co. Advocates when the case was returned to the High Court. He stated the ruling of this court has affected the judgment of the Court of Appeal.

He argued further that, the counsel for the respondent was fully aware that, advocate Verycah R, Gossi was working with Hamza & Co. Advocate before the High Court and thereafter at the Court of Appeal. He stated on 14th September, 2022 the counsel for the respondent served

the mentioned counsel with their list of additional authorities to be relied upon in the Court of Appeal and even summons of the High Court were served to the Hamza & Co. Advocates. He argued that, even when the matter was at the High Court before Hon. Awadhi, J (as he then was) the counsel for the respondent attempted to disqualify Verycah R. Gossi from representing the applicant in the matter without success.

He submitted that all the evidence pleaded in his affidavit shows the counsel for the respondent was aware that advocates Kitambwa and Verycah Gossi were working with Hamza & Co. Advocates. Therefore, to state he was not aware that advocate Kitambwa was working with Hamza & Co. Advocate is a big lie. He submitted the aforesaid reason shows the counsel for the respondent choose unethical line of lying and cheating to obtain a decision based on a lie and cheat. He stated the advocate for the respondent did not assist the court to discharge justice and submitted the court is required to take stern measure against the counsel for the respondent.

He argued that, to his understanding the court of law uses law to dispense justice and it does not use assumption and unfounded allegations that are not supported by evidence to make decision. He quoted part of the ruling of the court and submitted the decision of the court was based on assumption that advocate Senguji was once dealt with the dispute and he might have obtained some confidential information

from the respondent who is the plaintiff in the main suit. He argued there are some issues which the court was supposed to ask itself instead of making assumption and raised the issues he thought were supposed to be raised and answered by the court.

He referred the court to section 110 (1) and (2) of the Evidence Act Cap 6 R.E 2019 which states whoever desires any court to give judgment as to any legal right or liability depending on existence of any fact is required to prove existence of the alleged fact. He argued that, as the respondent is the one alleged existence of the information, he was required to prove existence of the stated information. He stated the respondent failed to prove existence of the alleged facts before Hon. Wambura, J (as she then was).

He argued that, the fact that advocate Senguji decided to disqualify himself to represent the applicant did not prove anything because some people tend to avoid confrontational environment when faced with liars and cheaters, who want to get anything no matter what as appears to the counsel for the respondent. He submitted as the allegation by the counsel for the respondent that he was not aware that advocate Kitambwa was working with Hamza & Co. Advocate is a lie fact, that is an apparent error on the face of record which shows the ruling of the court need to be reviewed.

He stated another illegality on the face of the record which necessities review of the ruling of the court is contravention of doctrine of precedent. He stated advocate Kitambwa and Verycah Gossi represented the respondent in the Court of Appeal and no objection was raised by the respondent. He argued it is through their submissions that the decision made by Hon. Awadhi, J (as he then was) was set aside and the Court of Appeal ordered the matter to proceed from where it ended before the decision of the court made by Hon. Awadhi, J.

He went on arguing that, declaring Advocate Kitambwa and Verycah Gossi who represented the applicant in the Court of Appeal have no qualification of representing the applicant, it means what they submitted at the Court of Appeal were null and void. He submitted that, disqualifying the mentioned advocates from representing the applicants shows there is no case at the High Court and the case is still pending at the Court of Appeal and the judgment of Hon. Awadhi, J is still intact. It was his submission that, under the stated circumstances the case is supposed to be return to the Court of Appeal so that it can be argued by different advocates and then return back to the High Court for retrial.

He stated the ruling of this court extinguished the judgment of the Court of Appeal and there is no judgment of the Court of Appeal right now and the decision of Awadhi, J is still in existence and the court is *functus*

officio. He argued that, in the light of the stated submission the court has no jurisdiction to entertain the matter.

He referred the court to the case of **Mary Rwabizi T/A Amuga Enterprises V. National Microfinance PLC**, Civil Application No. 378/01 of 2019, CAT at DSM (unreported) where it was stated extension of time is always given when there is an issue of illegality in the decision to be challenged. He argued his delay was not on purpose but he was seeking for alternative redress before the Chief Justice. He said he was seeking for revision of the decision of the court but he was advised to use other remedies and now he has come to this court with the present application. At the end he prayed the court to grant him extension of time to file a review of the ruling of the court to cure the stated illegality which he stated are apparent.

In his reply the counsel for the respondent prefaced his submission with two observations which he stated they are affecting propriety of the application. He stated the first observation is that the application is not accompanied with the ruling sought to be reviewed which is a general rule of practice. He stated the second observation is that the applicant's submission shows it was drawn, signed and filed by the applicant while it was earlier on stated to the court that the applicant had donated power of attorney appointing Salum Khamis Nasor to represent him in the matter and the stated power of attorney has not been withdrawn. He stated the

submission of the applicant was supposed to be filed in the court by the attorney for the applicant and not by the applicant. He submitted the stated observations shows the application is supposed to be struck out.

Back to the merit of the application, the counsel for the respondent prayed to adopt the counter affidavit of the respondent as part of his submission. He argued as stated in the ruling intended to be reviewed it is clear that the advocate Kitambwa was disqualified to represent the applicant pursuant to the provision of the **Advocates (Professional Conduct and Etiquette) Regulations, 2018**. He argued the said advocate has not challenged the said decision and the earlier decision of disqualification of his partner Senguji was neither challenged by the said advocate nor his client.

He argued further that the ruling the applicant wish to be reviewed is a direct flow of the earlier orders of Hon. Wambura, J and Hon. Mallaba, J (Both retired judge) on whether the mentioned advocate would have conducted the matter on behalf of any of the parties. He submitted there is nothing to be reviewed and the disqualified advocate has not complained and there is no suggestion on how the applicant was affected by disqualification of the mentioned advocate from representing the applicant in the matter. He submitted the applicant has no locus to challenge the disqualification of advocate Kitambwa to represent him in the case which was based on violation of professional ethics.

He enumerated illegalities alleged in the submission of the applicant are in the ruling of the court intended to be reviewed if the application at hand will be granted to be as follows; firstly, the decision is illegal because it goes against the doctrine of judicial precedent and for containing falsehood submitted by the counsel for the respondent, secondly, the advocate for the respondent lied and cheated the court which to the applicant is an apparent error on the face of the record and thirdly, as advocate Kitambwa participated in the Court of Appeal proceedings, therefore, the ruling of this court to disqualify him to represent the applicant in the case has the effect of nullifying the judgment of the Court of Appeal and the decision of Hon. Awadhi, J.

The counsel for the respondent submitted that, although the first and second grounds of illegality have no meaning and have no legal support as there is no illegality exposed but also the third allegation cannot be made before this court and that is not the implication of the ruling of the court which disqualified advocate Kitambwa to represent the applicant in the case.

He argued that, the letter from the office of the Chief Justice annexed in the affidavit supporting the application shows the applicant was advised to take steps to challenge the decision complained of and stated that cannot be made before the same court but to a superior court. He argued that, as the applicant is maintaining that the ruling of this court

overturned the decision of the Court of Appeal, then this court cannot rectify the alleged illegality by way of review. He submitted the remedy is to go to the Court of Appeal and not before this court by way of review.

As for the reason of the delay the counsel for the respondent argued that, the argument by the applicant that he was seeking for alternative redress before the Chief Justice is a total lie. He stated the ruling of the court was delivered on 8th June, 2023 and the letter from the office of the Katibu wa Jaji Mkuu is dated 12th July, 2023 and it made reference to the letter of 26th June, 2023. He stated that means the applicant made his complaint to the Chief Justice after the elapse of eighteen days from the date of delivery of the impugned ruling and there is nowhere the stated eighteen days were accounted for.

He added that, even after the complaint of the applicant being replied on 12th July, 2023, the application at hand was filed in the court on 25th July, 2023, that is thirteen days later and there is no explanation of the delay. He submitted that, even if there were sound reasons to justify the intended review, still there is no justification for the delay. He submitted the applicant has not accounted for all days of the delay from the date of ruling of the court and as stated earlier there is no illegality that can be cured in the intended review. At the end he prayed the court to find the application has no merit and prayed the application be dismissed with costs.

In his rejoinder the applicant reiterated what he argued in his submission in chief and tried to show how the counsel for the respondent has been telling lie and cheat by quoting parts of the ruling of the court and parts of his submission he filed in the matter at hand. He stated the counsel for the respondent lied or cheated when he submitted that he became aware that advocate Kitambwa was working with advocate Senguji after seeing the court summons has been received by advocate Senguji who is working with Hamza & Co. Advocate.

He argued that is a lie as the counsel for the respondent was aware that advocate Kitambwa and Verycah Gossi were working with Hamza & Co. Advocates when the case was before Hon. Awadhi, J and he tried to disqualify advocate Verycah Gossi without success. He stated the counsel for the respondent cheated again by stating in his submission that advocate Kitambwa was disqualified pursuant to the provisions of the **Advocates (Professional Conduct and Etiquette) Regulations, 2018** while there was no evidence to support the stated law. He stated he raised some issues which were supposed to be answered by the court before embarking on disqualifying advocate Kitambwa but those issues were not answered.

He cited in his rejoinder clause 39 of Magna Carta 1215 which he states is still relevant to country speaking English and argued the decision obtained by fraud or falsehood cannot be a lawful judgment. He referred

the court to section 110 of the Evidence Act, Cap 6 R.E 2002 and stated the decision of the court is unlawful because it was obtained by fraud hence it is required to be reviewed. He submitted he was affected by the decision of the court both financially and a right to choose an advocate of his choice whom he trusted. He argued that, as stated in the case he cited in his submission in chief there is no need of accounting for the days of the delay as the impugned decision is tented with illegalities.

With regards to the observation raised by the counsel for the respondent in relation to failure to accompany the application with the ruling intended to be reviewed and the observation that the submission supporting the application was filed in the court by the applicant while he had donated power of attorney to Salum Khamis Nasor and the power of Attorney had not been withdrawn he stated that, the same should not be entertained as were raised in the submission. He cited in his submission the case of the **Registered Trustees of the Baptist Convention of Tanzania @ Jumuiya Kuu ya Wabatist V. James Kasomi & Four Others**, Misc. Civil Application No. 35 of 2021, HC at Mwanza (unreported) where the court discouraged practice of raising objection in the submission.

He argued the power of attorney he donated to Salum Khamis Nasor was lodged in the court on 14th August, 2023 and the application at hand was filed in the court on 25th July, 2023 which means he lodged the appeal

in the court before issuing the power of attorney to the mentioned attorney. He stated further that the power of attorney was donated in respect of Land Case No. 47 of 2014 and not Misc. Land Application No. 455 of 2023. He stated the only thing he asked a favour from the stated attorney was to ask the court for leave to argue the application by way of written submissions and other matters remained his responsibilities.

He argued that, the submission by the counsel for the respondent that the application was supposed to be filed in the Court of Appeal is misplaced because there is no such a room. He argued that, the letter from the Chief Justice Office dated 25th July, 2023 stated the remedy can be obtained from this court. He argued that is why he is seeking for extension of time within which to file application for review of the ruling of the court in this court. He stated it is not true that the letter from the Chief Justice Office meant the remedy should be sought in the superior court. In conclusion he reiterated his prayer in chief that the application be granted.

Having carefully considered the rival submission from both sides and after going through the chamber summons and its supporting affidavit, the court has found the applicant is seeking for extension of time to file in the court an application for review of the ruling of the court delivered on 8th June, 2023. That being the order the applicant is seeking from the court the main issue to be determine in this application is whether the

applicant deserve to be granted extension of time is seeking from the court.

Before going to the merit of the application the court has found it is proper to start with the points of observation raised by the counsel for the respondent in his submission. His first point of observation as stated earlier in this ruling is that the application was not accompanied by the copy of the ruling intended to be reviewed which is contrary to the practice of the court. His second observation is that the submission by the applicant was drawn and filed in the court by the applicant while the applicant has donated power of attorney to one Salum Khamis Nasor to represent him in the matter and the stated power of attorney has not been withdrawn from the court.

The court has found as rightly argued by the applicant in his rejoinder submission the position of the law as stated in the case of the **Registered Trustees of the Baptist Convention of Tanzania** (supra) is very clear that preliminary objection should not be raised in the submission as to do so is to take the other party by surprise. The court refused to entertain preliminary objection raised in the submission filed in the foregoing cited case after citing several decisions which prohibits taking other party by surprise by raising preliminary objection in the submission. One of the cases cited by the court in the above cited case is

the Kenyan case of **Juma & Others V. Attorney General**, [2003] 2 EA 461 where it was held inter alia that: -

> *"Justice is better served when the element of surprise is eliminated from the trial and the parties are prepared to address issues on the basis of complete information of the case to be met."*

Although the counsel for the respondent stated in his submission that the points raised in his submission are points of observation but to the view of this court the stated points are preliminary objection in disguise. The court has been of the view that, despite the fact that the matter before the court is an application for extension of time and the law is silent on the manner in which preliminary objection should be raised but as stated in the case of **Gabinius Singano V. St. Timoth Pre & Primary School**, High court Labour Revision No. 8 of 2019, (unreported) the practice has shown that, one should give notice of preliminary objection to the other party before hearing of the matter and the essence of the notice is to allow the other party to prepare his defence.

The court has been of the view that, even if it will be said the court is required to entertain the stated observations but still the counsel for the respondent has not cited any law showing where an application for extension of time like the one before the court is not accompanied by a copy of an impugned decision or order it cannot be entertained by the court and it is supposed to be struck out as prayed by the counsel for the

respondent. It is the view of this court that, it will not be proper to say the application of the applicant is supposed to be struck out while it has not been shown clearly which law has been violated by the stated omission of attaching the copy of the impugned ruling and drawn order of the court to the application. In addition to that it has also not been established the stated omission has prejudiced the other party or it has occasioned any miscarriage of justice in the matter.

The court has also found even the further observation by the counsel for the respondent that the submission by the applicant was signed by the applicant while he has donated power of attorney to one Salum Hamis Nasor cannot be a ground of striking out the application. The court has found that, as the power of attorney was donated to the stated attorney in respect of the main suit and not the present application, and what was done by the stated attorney in the present application was just to urge the court to allow the application to be argued by way of written submission, it cannot be said the application should be struck out on a mere reason that the written submission of the applicant was drawn and filed in the court by the applicant.

It is the view of this court that, as the stated attorney was donated power of attorney to represent the applicant in the main suit and not in the present application there is nothing which can affect the submission drawn and filed in the court by the applicant to the extent of requiring the

same to be struck out. Consequently, the observations raised by the counsel for the respondent are overruled for being devoid of merit.

Back to the merit of the application the court has found as the application is made under section 14 (1) of the Law of Limitation Act, the court is required to be satisfied there is reasonable or sufficient cause for granting the applicant extension of time to institute in this court an application for review of the decision of the court he want to institute in the court. The term "reasonable or sufficient cause" provided in the above cited provision of the law is not defined in the Law of Limitation Act or any other law. When the court was dealing with the similar in the case of **Emmanuel Billinge V. Praxeda Ogweya & Another**, Misc. Civil Application No. 168 of 2012, HC at DSM (unreported) it stated that: -

> *"What constitute reasonable or sufficient cause has not been defined under the section because that being a matter for the courts discretion cannot be laid down by any hard and fast rules but to be determined by reference to all circumstances of each particular case."*

Although the term "reasonable and sufficient cause" has not been defined in our law but there are some factors which have been considered by our courts to be "reasonable and sufficient cause" to move the court to exercise its discretionary power to grant extension of time for doing anything required to be done under the law. Some of those cases include the cases of **Tanga Cement Company Limited V. Jumanne D.**

Massangwa & another, Civil Application No. 6 of 2001 and **Lyamuya Construction Company Limited V. Board of Trustees of Young Women's Christian Association of Tanzania,** Civil Application No. 2 of 2010 (Both unreported). The Court of Appeal of Tanzania laid in the latter case some factors or principles to be considered in granting extension of time to be as follows: -

(a) The applicant must account for all the period of delay.

(b) The delay should not be inordinate.

(c) The applicant must show diligence, and not apathy, negligence or sloppiness in the prosecution of the action that he intends to take and

(d) If the court feels that there are other sufficient reasons, such as the existence of a point of law of sufficient importance; such as the illegality of the decision sought to be challenged."

While being guided by the stated position of the law the court has found the applicant in the application at hand is seeking for extension of time to file in the court an application of review of the decision delivered by the court on 8th June, 2023. The ground upon which the application is pegged as can be seeing in the affidavit and submission of the applicant is that there are illegalities apparent on the face of the impugned ruling of the court. The stated cause is one of the factors stated in the above cited case that it can be used to grant extension of time if the court is satisfied it is apparent on the impugned ruling or order of the court.

The court is in agreement with the applicant that allegation of existence of illegality in a decision or order intended to be challenged if established in application for extension of time is one of the reasonable causes for granting extension of time. The court has come to the stated view after seeing it is a long-time standing position of the law established by the Court of Appeal in the case of **Principal Secretary, Ministry of Defence and National Service V. Devram P. Valambhia,** [1992] TLR 387 where it was stated that;

> *"When the point at issue is one alleging illegality of the decision being challenged the court has a duty even if it means extending the time for the purpose to ascertain the point and if the alleged illegality be established, to take appropriate measures to put the matter and the record right."*

However, in order for the point of illegality to be accepted as a ground for granting extension of time, it must clearly be established in the application and in the submission fronted to the court to support the application. It should not be assumed or one which need long drawn process to discover the same. The above stated view of this court is being fortified by the decision made by the Court of Appeal in case of **Lyamuya Construction Company Limited & Another V. T. C. C. L. & Others**, Civil Application No. 97 of 2003 (unreported) where it was stated that: -

"Since every party intending to appeal seeks to challenge a decision either on points of law or facts, it cannot in my view, said that in Valambia's case, the court meant to draw a general rule that every applicant who demonstrates that his intended appeal raises points of law should, as of right, be granted extension of time if he applies for one. The court there emphasized that such point of law must be that of sufficient importance and, I would add that, ***it must also be apparent on the face of the record, such as the question of jurisdiction; not one that would be discovered by a long-drawn argument or process.***" [Emphasis added].

Although the above cited case was dealing with the application for extension of time to appeal out of time but the principle of law laid in the above cited case is also applicable in an application for extension of time to institute in the court an application for review of a decision of the court out of time. That being the position of the law the court has found the illegalities alleged by the applicant are in the impugned decision of the court are as follows; firstly, the impugned decision of the court goes against the doctrine of judicial precedent, secondly, the decision of the court contain falsehood submitted by the counsel for the respondent and thirdly, as advocate Kitambwa participated in the proceedings of the Court of Appeal, the ruling of this court to disqualify him to represent the applicant in the case has the effect of nullifying the judgment of the Court of Appeal and the decision of Hon. Awadhi, J.

Although legally the court is not required to go into merit of the above listed points of illegalities and determine if they are points of illegalities or not as that is a task to be done in the application for review if it will be filed in the court but as the applicant has given a detailed submission in respect of the alleged illegalities the court has found there is no way it can refrain from going through the stated illegalities so as to satisfy itself whether they are apparent on the face of the impugned decision of the court or not.

Starting with the argument that the decision of the court was given against the doctrine of the judicial precedent, the court has found the applicant has not disclosed clearly which judicial precedent was violated by the decision of the court so as to establish it is an error apparent on the face of the impugned decision of the court. The court has been of the view that, if it will be taken the applicant is relaying on the matter taken to the Court of Appeal but he has not demonstrated anything showing the impugned decision of this court has violated any decision or order made by the Court of Appeal which is binding to this court.

The court has found the applicant argued that, as advocate Kitambwa participated in the proceedings of the Court of Appeal, then the ruling of the court to disqualify him to represent the applicant in the case pending before this court has the effect of nullifying the judgment of the Court of

Appeal and the decision of Hon. Awadhi, J. The court has found as rightly argued by the counsel for the respondent if the stated error is really in existence in the impugned decision of the court, then it is not an error which can be rectified by way of moving the court to review its decision. To the contrary the court find as rightly argued by the counsel for the respondent that is an error ought to be taken to the superior court.

The court has also been of the view that, although it is not disputed that advocate Kitambwa appeared in the Court of Appeal to represent the applicant in the proceedings of the matter taken to the Court of Appeal and there is no objection raised to disqualify him to represent the applicant in the matter, but that is not enough to establish the mentioned advocate could have not been disqualified from represent the applicant in the matter. To the view of this court the mentioned advocate could have been qualified from representing the applicant in the case if there is a justifiable reason for doing so as it was done in the impugned decision.

As for the issue of illegality relating to the allegation of falsehood argued was made to the court by the counsel for the respondent which the applicant has argued it in detail, the court has found it is not a point of law which can be determined without requiring long drawn argument or process to discover the same. If it is a point of law requiring long drawn argument to establish the same, then, in the light of the position of the

law stated in the case of **Lyamuya Construction Company Limited & Another** (supra) it is not a point of law which can justify grant of an order of extension of time to enable the applicant to lodge in the court the application for review of the impugned decision of the court.

The further argument by the applicant that the counsel for the respondent was aware that advocate Kitambwa was working in the law firm of Hamza & Co. Advocates as he served him with summons to appear in the court through the stated firm and he was served with list of documents filed in the Court of Appeal by the mentioned advocate from the stated firm has been found by the court it is a misplaced argument because the issue before the court was not about the mentioned advocate to work in the mentioned law firm.

The issue was about the mentioned advocate to work in the same firm with advocate Senguji who was disqualified from representing the applicant in the case because of having participated in the case of the respondent when he was working as a State Attorney and obtain some confidential information from the respondent which can be used to prejudice the case of the respondent. The further argument by the applicant that when the case was before Hon. Awadhi, J the counsel for the respondent attempted to disqualify advocate Verycah R. Gossi without success is not only that it is not supported by any material evidence but

it cannot be a ground of moving the court to review the impugned decision of the court.

It was also argued by the applicant that, he was advised by the office of the Honourable Chief Justice to come to this court because there is no remedy he can seek from the Court of Appeal. The court has found there is nowhere in the letter written to the applicant by the office of the Honourable Chief Justice annexed in the affidavit to support the application it is stated the applicant was advised to come to this court to seek for review of the impugned decision of the court. To the contrary the court has found the letter written to the applicant shows he was advised to use available remedy to challenge the impugned decision of the court without being told which remedy he can seek for and before which court.

The court has found the applicant has argued further that the court is required to use law to dispense justice and not assumption and referred it to section 110 (1) and (2) of the Evidence Act and submitted the counsel for the respondent failed to prove advocate Senguji disqualified himself from representing the applicant in the case. The court has failed to see any error in the impugned decision of the court relating to the stated argument. The court has been of the view that, even if it will be taken the above stated errors are in the impugned decision of the court, but they cannot be remedied by way of review the applicant is seeking for leave to

institute it in the court out of time. The above view of this court is getting support from the case of **Eastern and Southern African Development Bank V. African Coreen Fields Ltd & Others**, [2002] EA 377 where it was stated that: -

> *An order cannot be reviewed because it is shown that the judge decided the matter on a foundation of incorrect procedure and/or his decision revealed a misapprehension of the laws or that he exercised his discretion wrongly in the case. Further it could not be reviewed on the ground that other judge of coordinate jurisdiction and even the judge whose order is sought to be reviewed have subsequently arrived at a different decision on the issue.*
>
> ***The proper way to correct a judge's alleged misapprehension of the procedure or the substantive law or his alleged wrongly exercise of discretion is to appeal the decision unless the error is apparent on the face of the record and therefore requires no elaborate argument to expose it."*** [Emphasis added].

In the light of all what I have stated hereinabove and the cited authorities the court has found the points of illegalities the applicant has argued are in the impugned decision of this court have not succeeded to satisfy the court they are illegalities establishing apparent errors on the face of the impugned decision of the court which can be rectified by way of review. They are errors which as rightly argued by the counsel for the

respondent might be looked at by the superior court and determine whether the court was right in arriving to the impugned decision or not.

It is because of the stated reasons the court has found the applicant has not managed to satisfy it that there is reasonable or sufficient cause for granting him extension of time is seeking from this court to lodge in the court an application for review of the decision of this court. Consequently, the applicant is not granted and it is dismissed for being devoid of merit. It is so Ordered.

Dated at Dar es salaam this 02nd November, 2023.

I. Arufani.
JUDGE
02/11/2023

Court:

Ruling delivered today 02nd day of November, 2023 in the presence of Mr. Salum Khamis Nasor for the applicant and in the presence of Mr. Joseph Rutabingwa, learned advocate for the respondent. Right of appeal to the Court of Appeal is fully explained to the parties.

I. Arufani.
JUDGE
02/11/2023