

IN THE HIGH COURT OF TANZANIA

AT DAR ES SALAAM

MISC. CIVIL APPLICATION NO. 27 OF 2002

SELEMANI MOHAMED MTONI ..... APPLICANT

VERSUS

MINISTER OF JUSTICE

ATTORNEY GENERAL ..... RESPONDENT

R U L I N G

IHEMA, J.

In this application Seleman Mohamed Mtoni the applicant is seeking leave of this court to apply for orders of certiorari to remove into this Honourable court and quash the decision of the Minister of Justice and Constitutional Affairs refusing to extend time to sue out of time. In his affidavit accompanying the application the applicant has deponed that on 14th January, 2001 he unsuccessfully applied to the Minister under Section 44 (1) of Law of Limitation Act to extend time within which to institute legal proceedings against the Ministry of Health. It is on record that the Minister declined to grant the extension of time for want of jurisdiction in view of the fact that in law no extension of time can be entertained after the allowable period in terms of Section 44 (1) of Law of Limitation Act 1971. The Attorney General has opposed the application and rightly so in my view.

Under the provisions of Section 44 (1) of the Law of Limitation Act 1971 the Minister has discretion to extend the period of limitation in respect of any suit by a period not exceeding one half of the period of limitation for such a suit. The facts in the present case an alleged tortious cause the prescribed time for any action is three (3) years. The cause of action arose on 14th January, 1996 upon the demise of the applicant's daughter. As such on 14th day of January, 2001 when applicant sought the extension of time the allowable period of one half of the period of limitation had already lapsed. There is therefore nothing the Minister could do in the circumstances. It should be pointed out that the law stipulates that time starts to run on the day when the cause of action arose and not otherwise as the Applicant mistakenly thinks.

In the circumstances the preliminary objection raised is sustained; the application is struck out with costs for being incompetent.

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Order accordingly.

S. IHEMA,  
JUDGE

30/10/2002

Goram: Ihema, J.

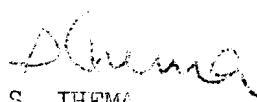
For Applicant - In person

For Respondents - Absent

CC Komba.

Court: Ruling delivered to-day before the applicant in person and in the absence of the respondents with notice.

Right of Appeal upon to the parties.

  
S. IHEMA,  
JUDGE

30/10/2002