

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

AT SUMBAWANGA

MISC. CIVIL APPLICATION NO. 3 OF 2019

RASHIDI S/O JUMANNE APPLICANT

VERSUS

HALIMA JOSEPH YENGAYENGA RESPONDENT

Date of last Order: 08/12/2020

Date of Ruling: 28/12/2020

RULING

C.P. MKEHA, J

In the present application, the applicant is asking for extension of time to appeal against the decision of Mpanda District Court delivered on 21/06/2015. The reasons for the delay are explained in the affidavit supporting the application.

According to paragraphs 4 and 5 of the said affidavit the reasons for delay are that, the District Court failed to supply certified copies of judgment and proceedings in time and that, the applicant's wife was sick for a long time leading to her death on 26/10/2014. It is important to note that, the matter sought to be appealed against originates from Matrimonial Cause No. 26 of 2013 of Mpanda Urban Primary Court. Apart from adopting the contents of the affidavit supporting the application, the applicant had nothing to add on the hearing date.

On her part, the respondent disputed the contents of paragraphs 4 and 5 of the applicant's affidavit regarding reasons for the delay. The respondent did so through paragraphs 2 and 3 of her counter affidavit.

Under section 25 (3) of the Magistrates' Courts Act, there is no requirement of annexing copies of decision sought to be appealed against if the matter originates from Primary court. See the decision in **Abdallah S. Mkumba vs. Mohamed Lilame (2001) T.L.R. 326 at page 329.**


Therefore even if the District Court delayed in supplying certified copies of judgment and proceedings, that was not a good reason for delaying appealing to this court given the fact that the matter originates from the Primary Court.

Again, if the applicant's wife died on 26/10/2014 as per paragraph 5 of the applicant's affidavit, though indeed that was a sad experience, in no way could that event hinder the applicant from appealing against the decision of the District Court of Mpanda which was delivered on 21/06/2015 in terms of paragraph 3 of the same affidavit.

From the analysis herein above, the application was preferred without there being sufficient reasons for the delay. The same is dismissed. I make no order as to costs.

Dated at **SUMBAWANGA** this 28th day of DECEMBER, 2020.




C.P. MKEHA
JUDGE
28/12/2020

Court: Ruling is delivered in the presence of the both parties.




C.P. MKEHA
JUDGE
28/12/2020