

HONG KONG / JUDGMENT

RE MAHMOOD TARIQ

[2025] HKCA 221

COURT

Court of Appeal

DECIDED

5 March 2025

CASE / FILE NUMBER

CAMP264/2022

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CAMP 264/2022, [2025] HKCA 221 On Appeal From [2022] HKCFI 790 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF APPEAL MISCELLANEOUS PROCEEDINGS NO. 264 OF 2022 (ON AN INTENDED APPEAL FROM HCAL NO. 2112 OF 2018) RE: MAHMOOD TARIQ Applicant Before : Hon Poon CJHC and Cheung JA in Court Date of Decision : 5 March 2025 DECISION Hon Cheung JA (giving the Decision of the Court) : On 28 April 2023, this Court handed down the decision ([2023] HKCA 606) dismissing the applicant's application to extend time to appeal an order of Deputy High Court Judge P. Li given on 30 March 2022 refusing his application for extension of time for leave to apply for judicial review in respect of his nonrefoulement claim. On 15 November 2024, the applicant filed a notice of motion and affirmation applying for leave to appeal this Court's order to the Court of Final Appeal out of time. The affirmation consists of 12 pages of enclosures of which 5 pages are the applicant's 'affirmation letter' and the remaining 7 pages are photocopies of previous court documents. The applicant has not lodged any written submission. Having considered the applicant's notice of motion and affirmation, we see no reason to depart from the usual practice of determining applications for leave to appeal to the Court of Final Appeal on paper without an oral hearing. We have, therefore, proceeded to determine the applicant's application on the basis of the documents in the case. The background to this case and the applicant's claim have been set out in our decision. We will not repeat them. Section 24(2) of the Hong Kong Court of Final Appeal Ordinance ('HKCFAO') (Cap. 484) provides that application for leave to appeal to the Court of Final Appeal shall be filed within 28 days from the date of the judgment to be appealed from. Section 24(5) further provides that the Court of Appeal may extend the time for the filing of the notice of motion. The applicant's present application is out of time by almost 1.5 years. The applicant simply stated at page 4 of his enclosure to his affirmation that he 'did not get any letter from the High Court'. This is a bare allegation unsupported by evidence nor explanation and elaboration. As to the merit of the intended appeal, section 22(1)(b) of the HKCFAO provides that leave to appeal to the Court of Final Appeal may be granted if the question involved in the appeal is one which, by reason of its great general or public importance, or otherwise, ought to be submitted to the Court of Final Appeal for decision. The notice of motion simply stated matters

such as the applicant did not get letter on time, or that he was not satisfied with the High Court decision, without explanations. The 5 page 'affirmation letter' by the applicant described factual matters (pages 1 to 2), the current ruling political party in Pakistan (pages 2 to 3), recent attacks happening in Pakistan (pages 3 to 4) and the lack of justice (pages 4 to 5). We are of the view that the grounds and arguments put forward by the applicant do not constitute viable grounds for giving leave to appeal. Importantly, no question of great general or public importance has been identified as required by section 22(1)(b) of the HKCFAO. Nor do we see any basis for the 'or otherwise' limb under section 22(1)(b). As the statutory requirements for giving leave to appeal are not met, the intended appeal has no merit and there is no basis for us to extend the time for the filing of the notice of motion. Accordingly, we dismiss the notice of motion. (Jeremy Poon) Chief Judge, High Court (Peter Cheung) Justice of Appeal Applicant, unrepresented, acting in person

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