

TANZANIA / JUDGMENT

ester raphael vs samson lukas

2023 tzhc 22206 31 october 2023

COURT
TZHCDECIDED
31 October 2023

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RT OF THE UNITED REPUBLIC OF TANZANIA IN THE HIGH kigoma sub-registry at kigoma
appeal no. 05 OF 2023 DC. CIVIL ..appe ester RAPHAEL... VERSUS ..res SAMSON LUKAS.....
District Court of Kigoma) (Arising from the decision of the (Mushi, RM) Dated 23* March 2023 in
Misc. Civil Application No. 09 of

judgement

3""^ & 31^^ October 2023 RwizHe,- 3 of the district court, which denied the This appeal arises from the decision the district court. When extension of time to file her appeal in by the appellant and that there was no illega ity pro of the Court in three fours therefore asked to set the decision This court is accounted for and for the delay which was that there was sufficient cause learned advocate shown. Mr. Moses Rwegoshara that illegality was '— appearing for the appellant argued that the application was filed one day out said, the application was filed on 13-oepentenrber 2022 and paid of time. He the supplementary affidavit. for it on as shown in 1 He asked this court to allow this appeal. On the other side, the respondent who stood unrepresented prayed the decision of the District Court be confirmed. Granting or rejecting an application for extension of time is in the absolute discretion of the court. However, j ' such discretion has to be exercised along the principles consistently applied by c • : courts in case laws. In the case of Lyamuya Construction Company Ltd' “ . IV Board of Registered Trustees of Young Women's Christian Association of Tanzania, Civil Application No. 02 Of 2010. The court laid down principles to apply when granting or refusing an extension of time. It was held that; - i- The delay should not be inordinate "■ The applicant should show diligence and not apathy, negligence or sloppiness in the prosecution of the action that he intends to take; III. If the Court feels that there are other sufficient reasons such as the existence of a point of iaw of sufficient importance, such as the illegality of the decision sought to be challenged I note that although this case was cited before it, the district court did not consider the same. It dwelt on whether or not illegality was proved. The reasons that were advanced by the appellant before the district court was that she delayed for days because she was looking for legal assistance. I think the trial court was hard on the appellant. A delay of justice of a few days, in this case not exceeding three should not be taken as to have been excessive. I believe the time she spent looking for legal assistance was 2 have found it proper to extend ' ; the court ought to justifiable and therefore her to file her appeal. the time

for I.-- •; aside the ruling of allow this appeal, 1 set Having said, what I have said, I

- t. day of this ruling 14 days from the court. The appellant is given the district appeal before the same court. to file her ack. rwizile JUDGE 31.10.2023 o.
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