

TANZANIA / JUDGMENT

MISC

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA ARUSHA SUB REGISTRY AT ARUSHA MISC CIVIL APPLICATION NO. 1215 OF 2024 (Emanated From District Court of Arusha Civil Case No. 13 of 2024) HONEST LAURENT APPLICANT VERSUS BOMET CORPORATION CO LTD RESPONDENT

RULING

03/09/2024 & 06/09/2024 BADE, J. The above-named Applicant filed an Application by way of Chamber Summons supported by an affidavit moving this court to order that time within which the Applicant can file its Appeal be extended, which is an Appeal to enable the Applicant to file his appeal against the decision of the Arusha District Court in Civil Appeal No. 15 of 2023. Page 1 of 5 The Application is made under sections 25(1),(b), and Rule 3 of the Civil Procedure (Appeals in proceedings originating from Primary Courts GN 312 of 1964 and section 95 of the Civil Procedure Code Cap 33 RE 2022. The counsel who was instructed to represent the Respondent did enter an appearance on the previous sitting of this court and had prayed and been granted with leave to file a Counter affidavit, but none was filed by the Respondents as ordered by the court. When the matter was called for a hearing, then counsel for the Applicant Ms. Lilian Justo who attended prayed to have the matter be marked uncontested and proceed to grant the order issued. The Application is supported by two affidavits, one by the counsel for the Applicant and another from a Registry Officer one Idrissa Ramadhani since the same stands uncontested, and on the basis of the affidavits of the Applicant and the Registry Officer, she prayed to have the prayers to extend time granted. Having gone through both affidavits and the chamber summons, I am of the view that there are good reasons to have the extension of time issue since the delay in filing the Appeal was caused by the technical hitches presented Page 2 of 5 by the digital filing system of the court. Paragraph 4 of the affidavit of Idrissa Ramadhan sums up the problem encountered by parties, to wit a reference number generated could not work since it stemmed from Civil Appeal cases, whose proceedings were yet to be uploaded as the case arose before the induction of the new case management system in court. It is trite law that in any Application for an extension of time, the Applicant is supposed to show good or sufficient reason and the same has been expounded in different authorities. In the case of Lyamuya Construction Co. Ltd vs Board of Registered Trustees of Young Women's Christian Association of Tanzania, Civil Application No. 2 of 2010 (unreported) there have been established guidelines to be followed before granting an extension of time, thus: (a) The applicant must account for all the periods of

delay.

- (b) The delay should not be inordinate.
- (c) The application must show diligence, and not apathy, negligence, or sloppiness in the prosecution of the action that he intends to take.
- (d) If the Court feels that there are other sufficient important reasons such as the illegality of the decision sought to be challenged. Page 3 of 5 Similarly, in the case of Laurent Simion Assenga vs Joseph Magoso & 2 Others, Civil Application No. 50 of 2016 the Court of Appeal expounded further in answer to the question of a good cause for the delay depending on the fact of each case, insisting that many and varied circumstances could constitute good cause in any case. To account for the delay, the Applicant has adduce technical ground on which the court should grant an extension on. In any case, I think the time that the Applicant expended in pursuit of the Appeal is excusable under Rule 21 (1) of Electronic Filing Rules of 2018. See also William Fortunatus Masha vs William Shija, (unreported) which held an extension can be granted if the delay is excused for technical errors, and Regional Manager Tanroads Kagera vs Ruaha Concrete Co Ltd, Civil Application No. 96 of 2007, where the Court stated that what constitutes sufficient reason cannot be laid down by hard and fast rule. The Court will have to be moved by the Applicant through placing materials before it to show sufficient reason. I am satisfied that the Applicant has demonstrated sufficient reasons for an extension of time to grant. The Application is accordingly allowed. The Page 4 of 5 Appeal has to be lodged within 30 days from the date of this Ruling. No orders as to costs. It is so ordered. DATED at ARUSHA this 06th day of September 2024 A. Z. Bade Judge 06/09/2024 Ruling is delivered in the presence of the Applicant and In the absence of the Respondent / their Representative in chambers on the 06th day of September 2024. . A. Z. BADE JUDGE 06/09/2024 Page 5 of 5

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