

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
(CIVIL DIVISION)

MISCELLANEOUS APPLICATION NO. 271 OF 2018
(ARISING OUT OF CIVIL APPEAL NO. 13 OF 2015)

- 1. TIBAINGANA MOSES**
- 2. NAMBALIRWA JUSTINE TIBAINGANA----- APPLICANTS**

VERSUS

MUHSIN SERWADDA..... RESPONDENT

BEFORE HON. JUSTICE SSEKAANA MUSA

RULING

This is an application for leave to appeal out of time against the Judgment of Court delivered on against the applicants on the 23rd- April 2018 brought under Order 51 rule 6 & Order 52 rules 1&2 of the Civil Procedure Rules.

The respondent filed an affidavit in reply opposing the said application on 11th July 2018.

The applicants were represented by Kamugisha Vincent and the respondent was represented by Ssegamwenge Hudson. In the interest of time court directed the counsel for both parties to file written submissions.

The main ground for this application is that the applicant was not notified of the judgement notice and therefore was unable to file a notice of appeal in time.

The applicant contends that they regularly checked in the High Court to know whether the judgement was ready but they never got any notification of when the Judgement would be ready.

The 1st applicant obtained a copy of the judgment but unfortunately the lawyer had travelled out of the country and he could only attend to them upon his return.

The respondent in his affidavit in reply only contended that the applicants have not given any co-sufficient reason to appeal out of time and have not demonstrated that they have a good appeal with likelihood of success. He further contended that the said application should have been filed in the Court of Appeal and not this Court.

The application for extension of time can be made in the High Court, it is one of such applications where both courts have concurrent jurisdiction. See ***Oscar Mugume vs Metropolitan Properties Ltd Court of Appeal Civil Application No. 31 of 2014***

Every application for extension of time must show sufficient reason for inability to take a particular step. See ***Mugo and others vs Wanjiru & Other [1970] EA 482***.

The applicants have shown that they failed to take an essential step of appealing because they did not know the date the judgment of court was delivered. I have perused the whole court record and file but there is evidence of judgement notice. On the basis of the above, I would agree that indeed, the court never issued a judgment notice and this justifies the application for extension of time to file a notice of Appeal.

The applicants have also stated that their advocate was not in the country at the time they obtained the Judgement. This is also a good reason why they were unable to take a particular step of filing a notice of appeal in time.

For the above reasons, this application is allowed and each party shall bear its costs.

SSEKAANA MUSA
JUDGE

17th /07/2018