



5 with the hope of returning within one month to file for judicial review over  
his termination that he had received on 5<sup>th</sup> February 2020 but that.  
however, due to the Covid-19 pandemic he applicant failed to return  
because the Elegu Border crossing had been closed and that he only  
managed to return to Uganda on 16<sup>th</sup> December 2020 through Owiny-  
10 Kibul border. Further that the applicant has strong grounds that establish  
the need for judicial review and that it was just and equitable that time is  
granted for the applicant to apply for judicial review.

The respondents despite being served did not file an affidavit in reply. The  
same attitude was exhibited when this court gave a schedule for filing  
15 submissions. Only the applicant filed his submissions.

## 2. Submissions by the applicant:

Counsel for the applicant M/s Owori & Co. Advocates submitted that this  
application was fixed for hearing on 25<sup>th</sup> February, 2022 after the same  
had been served onto the Respondents on 22<sup>nd</sup> and 23<sup>rd</sup> December, 2021  
20 respectively (an affidavit of service is on court record) but that the  
respondents failed to file any reply to the application and even when the  
matter came up for hearing, the Respondents still failed to appear despite  
being served.

That new hearing notices were issued for 24<sup>th</sup> March, 2022 and the same  
25 were served on the Respondents on 21<sup>st</sup> March, 2022 (an affidavit of  
service is on court record) yet still the respondents did not appear in court  
with the court still adjourning the matter to 25<sup>th</sup> May, 2022.

Still on 25<sup>th</sup> May, 2022, the respondents did not appear in court and the  
same was adjourned to 22<sup>nd</sup> August, 2022 on which date, they still did not  
30 also enter appearance in court resulting in an application to this court



5 before the learned Deputy Registrar for the file to proceed *ex parte* which prayer was granted.

Counsel for the applicant in his submission argued that since the Respondents did not file any response to the application and shunned court process on various occasions, despite being served, then it should be  
10 taken that the application is found uncontested.

With regard to the merit of the application counsel submitted that **Section 96 of the Civil Procedure Act, Cap 71** provides that where any period is fixed or granted by the court for the doing of any act prescribed or allowed by this act, the court may, in its discretion, from  
15 time to time, enlarge that period, even though the period originally fixed or granted may have expired.

**Section 98 of the Civil Procedure Act** (Supra) is to the effect that nothing in this act shall be deemed to limit or otherwise affect the inherent power of the court to make such orders as may be necessary for ends of  
20 justice or to prevent abuse of the process of the court.

And **Order 51 r 6 of the Civil Procedure Rules SI 71-1** provides that where a limited time has been fixed for doing any act, the court shall have power to enlarge time upon such terms, if any, as the justice of the case may require.

25 **Rule 5 (1) of the Judicature (Judicial Review) Rules** is to the effect that an application for judicial review shall be made within three months from the date the grounds of the application first arose unless the court considers that there is good reason for extending the period within which the application shall be made.

30 Counsel relied on ***I P Mugumya Vs Attorney General HMC No. 116 of 2015*** where it was held that an application for judicial review filed

5 after three months, when the grounds of application first arose, shall not be allowed unless there is an application for extension of time.

Counsel also relied on ***Bony M Katatumba Vs Waheed Karim Civil App No: 27/2007*** where it was held that for an application for extension of time to succeed sufficient reasons must be shown and that the applicant  
10 must be vigilant.

Further, it was submitted that in ***Mugo Vs Wanjiri [1970] EA 481*** it was held that sufficient reason must relate to the inability or failure to take a particular step in time.

Counsel submitted that under paragraph 15, 16 and 17 of the applicant's  
15 affidavit in support of the Application, the applicant states that on 29<sup>th</sup> February, 2020 he travelled to South Sudan with a hope to return after one month but due to Covid-19 pandemic, he was unable to return since all border points had been closed and that he only subsequently managed to return to Uganda on 16<sup>th</sup> December, 2020 through Owiny-Kibul border.  
20 Further, it was submitted that according averments by the applicant in paragraph 18 and 19 of the affidavit in support, the applicant state that he immediately upon return, he contacted his lawyer who advised him to apply for judicial review out of time and then went back to look for money to file the case but that considering the economic situation at the time and  
25 the fact that he was unemployed, it took him time to get money to facilitate the legal process.

Counsel additionally submitted that the Applicant is not guilty of any dilatory conduct and he was very interested in pursuing his rights to have the dispute heard and decided on its merits since at stake was his  
30 employment rights which is his only source of livelihood which is of great importance to him.



5 Counsel relied on ***Attorney General Vs. Orient Construction Co. Ltd, SC CA No. 7 of 1990***, where it was held that rules are made to be observed and where there has been excessive delay the court requires to be satisfied that there is an adequate excuse for the delay or that the interest of justice are such as to require the indulgence of court upon such  
10 terms as court considers just.

Counsel then submitted that the Applicant has shown sufficient reasons to warrant this court to grant the application and prayed that this honourable court in the interest of substantial justice putting into consideration **Article 126 (2) (e) of the Constitution** endeavor to  
15 accord substantive justice without undue regard to technicalities.

3. Resolution of this Application:

Counsel for the respondent cited the laws on extension of time to file an application and I do not see the need to repeat them.

However, of particular note is **Rule 5(1) of the Judicature (Judicial  
20 Review) Rules** which allows for extension of time within which an application for judicial review may be made where the court considers that there is good reason.

A scrutiny of this application, its supporting affidavit and annexures clearly show that the applicant was indeed out of Uganda within the  
25 period which he should have made the head application. He was in South Sudan and only returned on 16<sup>th</sup> December 2020 as seen from a copy of his visa document meaning that the period within which he was to file his application for judicial review expired when he was still in South Sudan. This is sufficient reason to warrant an extension of time within which to  
30 file the impugned application.

5 Counsel additionally submitted that due to financial constraints arising from the termination of applicant's job and the ensuing economic situation, the applicant was not able to bring the impugned application immediately. This Honourable Court takes judicial notice of the fact of economic difficulties which arise from loss of one's job and generally the  
10 economic hardship which resulted from Covid-19 pandemic lockdown and as such agree that these are reasonable grounds which support this application.

Further, I do note that the respondents did fail to file their affidavits in reply to the head application even after being given sufficient  
15 opportunities to do so with no contrary evidence showing any reason for failing to do so. That failure without reasons means the application is uncontested.

Furthermore, it can be seen from the applicant's affidavit that there is need for his application for judicial review to come before this court for  
20 proper determination. The interest of justice requires that the impugned application be allowed to be brought before court for its logical determination and as such I would find that this application for the grant of extension of time is valid.

#### 4. Conclusion:

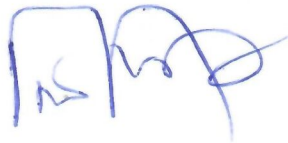
25 Arising from the above consideration I would find and conclude that the applicant has provided good reasons for not filing his application for judicial review in time and so this application is allowed with the applicant allowed to within which to file the same.

#### 5. Orders:

30 a) This application for extension of time within which to file an application for judicial review out of time is allowed.

- 5      b) The applicant is given one month to bring his application for judicial  
review  
c) The costs of this application to abide by the main application.

I so order.



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Hon. Justice Dr Henry Peter Adonyo

Judge

13<sup>th</sup> October 2022