

THE REPUBLIC OF UGANDA
THE INDUSTRIAL COURT OF UGANDA HOLDEN AT KAMPALA
MISC. APPL. NO. 119/2018
(Arising from LABOUR DISPUTE APPEAL No. 03of 2018)

MBABAZI JOYCE.....CLAIMANT

VERSUS

ENTEBBE HANDLING SERVICES.....RESPONDENT

BEFORE

1. The Hon. Chief Judge, AsaphRuhindaNtengye
2. The Hon. Judge, Linda Lillian TumusiimeMugisha

Panelists

1. Mr. Fidel Ebyau
2. Ms. Harriet Mugambwa
3. Mr. F. X. Mubuuke

RULING

This is an application by Notice of Motion seeking an order of this court to regularize the applicant’s notice of Cross Appeal filed out of time and an order to grant her leave to file a notice of cross appeal together with the record of cross appeal. The application also seeks for costs. The affidavit in support of the application is to the effect that the applicant having been the successful party before a Labour officer applied for execution but the execution application was struck off for lack of compliance with procedure after which she was advised to file a cross Appeal and that if the Cross Appeal was not allowed the applicant would stand to lose gratuity and terminal benefits. The respondent filed an affidavit in reply to the effect that there was no sufficient reason shown for the court to allow the application and that there was dilatory conduct on the part of the applicant.

Both applicant and respondent’s counsel addressed the court in oral submission. We listened carefully to their submissions. We have also perused both the notice of motion and the affidavits in support and in reply.

We agree with counsel for the respondent that the applicant did not have any intentions of filing a cross appeal and did not at any given time give instruction to any counsel before this application to file the same. The applicant gave instructions to counsel to file a notice of address after the respondent had filed an appeal. The applicant cannot therefore rely on any mistake of counsel since there was no mistake made by counsel by contrary to instructions given by her client.

No grounds were shown in the application or the affidavit in support of the application as to why the applicant did not file the cross appeal at the time she was expected to file it. An application for extension of time can only be granted once the court is convinced of the reasons as to why the applicant failed to file the necessary documents within the prescribed time.

We have perused the draft cross appeal on the record. It is our opinion that the contents of the cross appeal will be taken care of in the reply to the memorandum of appeal since the gist of the appeal is whether the labour officer was correct in finding that the respondent was obliged to pay gratuity and the cross appeal is about the labour officer having failed to quantify the gratuity.

Accordingly the application is not allowed for

- 1) Being unnecessary
- 2) Not satisfying court with sufficient reason.

No order as to costs.

Signed by:

1. The Hon. Chief Judge, AsaphRuhindaNtengye
2. The Hon. Judge, Linda Lillian TumusiimeMugisha

Panelists

1. Mr. Fidel Ebyau
2. Ms. Harriet Mugambwa
3. Mr. F. X. Mubuuke

Dated 15/3/2019