

**THE REPUBLIC OF UGANDA
IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA
MISC. APPLN. NO. 004 OF 2021
(ARISING FROM BUSHENYI LABOUR DISPUTE No. 202/2019)**

BETWEEN

MTN UGANDA LIMITED.....APPLICANT

AND

ANTHONY KATAMBARESPONDENT

BEFORE

1. Hon. Chief Judge Ruhinda Ntengye
2. Hon. Lady Justice Linda Lillian Tumusiime Mugisha

PANELISTS

1. Mr. Bwire Abraham
2. Mr. Katende Patrick
3. Ms. Julian Nyachwo

RULING

This is an application by notice of motion under section **98 of the Civil Procedure Act, order 8 rule 11 (3), rule 18(2); Order 50 rule 6 and Order 52 Rules 1,2, &3** of Civil Procedure Rules. It seeks that

- a) Time be enlarged for filing this application.
- b) Leave be granted to the applicant to file a surre joinder to the Respondent's memorandum in rejoinder.

The application is supposed by an affidavit sworn by one Enid Edroma to the effect that the respondent filed a memorandum in rejoinder on 15/08/2019 which raised new matters in the respondent's memorandum of claim and the applicant's memorandum in reply, and that a response to the new matters by

the applicant will not prejudice the respondent but will prejudice the applicant if the application is not allowed.

An affidavit in reply was sworn by Anthony Katamba, the respondent, to the effect that the application was an abuse of court process intended to delay the disposal of Labour Dispute 202/2019 having been filed one year and 5 months after the rejoinder was filed. The respondent contended in the affidavit that the pleadings were closed and the facts in the rejoinder were deemed denied and put in issue.

We have perused the notice of motion together with the affidavit in support. We have also perused the affidavit in reply. We have listened carefully in open court to oral submissions of both counsel. It is noteworthy that this application first and foremost seeks time enlargement within which to file the application. This by itself is an admission that the application is out of time. However, we do not see anything in the submissions of counsel for the applicant suggesting reasons why the application was not filed within the time allowed. It is trite law that extension of time within which to file certain documents can only be allowed if sufficient reason is shown to the court as to what prevented the applicant to take a particular step within the prescribed time. (see **James Bwogi vs KCCA and Kampala District Land Board Supreme Court Application 09/2017**) As the affidavit in reply suggests this application is made 1 year and 5 months after the claimant's rejoinder was filed. In our view this is so long a time that no court would allow filing the same without sufficient reason as to why it took that long.

In the absence of any clue in the oral submissions of counsel for the applicant related to this point and in absence of any clue in the affidavit in support of the application related to extension of time, we have no reason to disbelieve the affidavit in reply that the application is intended to delay the disposal of the main suit. In any case as counsel for the respondent submitted averments in the rejoinder could be challenged in cross-examination and as the applicant's counsel intimated he will be able to argue whether this court has jurisdiction to entertain the same claims. Extension of time within which to file this application is consequently disallowed with the result that the application is struck out.

Because of the failure of the applicant to point out any justification whatsoever for extension of time, costs of this application shall be payable to the respondent. Order accordingly.

Delivered & Signed by:

1. Hon. Chief Judge Ruhinda Ntengye
2. Hon. Lady Justice Linda Lillian Tumusiime Mugisha

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PANELISTS

1. Mr. Bwire Abraham
2. Mr. Katende Patrick
3. Ms. Julian Nyachwo

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Dated: 28/05/2021