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IN THE HIGH COURT FOR ZAMBIA 2025/HP/0869
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(CIVIL JURISDICTION)



IN THE MATTER OF: AN APPLICATION FOR JUDICIAL REVIEW

IN THE MATTER OF: ORDER 53 RULE 3 OF THE RULES OF THE
SUPREME COURT OF ENGLAND 1965

AND

BETWEEN:

THE PEOPLE

V

THE CHIEF RESIDENT MAGISTRATE

EXPARTE VINOD SADHU, UDDIT SADHU, NIMSHA SADHU AND INDIRA
SADHU

Before the Honourable Mrs Justice Ruth Chibbabbuka on the 12th day
of November, 2025

For the Applicant: Mr W.C. Kayope & Mr S.T. Banda, Messrs Simeza
Sangwa & Associates

For the Respondents: Mr M. Mukelebai, Senior State Advocate, Attorney
General's Chambers

RULING

Cases referred to:

1. *Sitali Vs Anti-Corruption Commission (Appeal No, 98 of 2015)*
2. *Nahar Investment Limited Vs Grindlays Bank International (Z) Ltd (1984) Z.R 81*
3. *D.E Nkhuwa Vs Lusaka Tyre Services Ltd (1977) Z.R 43*

Legislation referred to:

High Court Act, Chapter 27 of the Laws of Zambia

Rules of the Supreme Court, 1999 Edition (The White Book)

1.0 Introduction

- 1.1 This is an application to extend time within which to apply for leave to apply for Judicial Review made pursuant to *Order 53 Rule 4 (1)* and *Order 53 Rule 14 (58)* of the *Rules of the Supreme Court, 1999 Edition (The White Book)*.
- 1.2 The applicant filed a Notice of Motion to extend time within which to apply for leave to apply for Judicial Review on the 19th May, 2025 which this Court directed should be heard *Inter-parte*. The said matter was heard *Inter-parte* on the 30th June, 2025.

2.0 The applicant's affidavit in support

- 2.1 In support of the Notice of Motion, the applicants filed an affidavit filed on even date sworn and deposed to by Uddit Sadhu who avers that: He is a shareholder and director in Sun Pharmaceuticals Limited. Sometime in the 1980's Sun Pharmaceuticals Limited engaged in a project for the manufacturing of disposable syringes and obtained a loan from the Development Bank of Zambia to facilitate the said project. The project was originally initiated by the founding shareholders of the company, who subsequently exited the company. The late Mr John Kalenga was also involved in the initial stages of the project, as a project facilitator and not a shareholder. However, he later withdrew his participation as he could no longer contribute to it.
- 2.2 The Development Bank of Zambia sued Sun Pharmaceuticals Limited over repayment of the loan it obtained. However, the High Court found that Sun Pharmaceuticals Limited had overpaid the loan it owed to the Development Bank of Zambia and entered judgment in favour of Sun Pharmaceuticals Limited and ordered the Attorney General to pay Sun Pharmaceuticals Limited the sum of Swiss Francs (CHF) 14,440,815.27

plus interest and costs. Prior to the court process and subsequent High Court judgment the Development Bank of Zambia had obtained an order sometime between 1989 and 1990 for bailiffs to seize the company and its assets, following the company's failure to repay the loan under Mr Kalenga's management as a project facilitator.

- 2.3 After the Ministry of Justice started remitting the judgment debt to Sun Pharmaceuticals Limited, the estate of the late Mr John Kalenga instituted court process against them, about twenty-five years after the death of Mr John Kalenga. However, the High Court dismissed the claim by the estate of the late Mr John Kalenga and found in their favour. Notably, the said court process commenced eleven years after the judgment referred to above, by which time the court records had long been in the public domain and a portion of the judgment debt had been paid without any attempt to challenge it by the estate of the late Mr John Kalenga.
- 2.4 Subsequently, the estate of the late Mr John Kalenga appealed to the Court of Appeal, which also upheld the decision of the High Court and dismissed the claims by the estate of the late Mr John Kalenga. Dissatisfied with the decision of the Court of Appeal, the estate of the late Mr John Kalenga sought leave to appeal to the Supreme Court but the same was denied by the Court of Appeal. Despite the judgments of the High Court and Court of Appeal, the children of the late Mr John Kalenga launched a campaign against them claiming that they stole their father's purported shares in Sun Pharmaceuticals Limited. The children of the late Mr John Kalenga also instigated the Zambia Police Service alleging fraud against them arising from their acquisition of shareholding in Sun Pharmaceuticals Limited, notwithstanding the decisions of the superior courts to the effect that they are the lawful owners of Sun Pharmaceuticals Limited.
- 2.5 Following the request to have them extradited to Zambia in fraud related offences and as regards the shareholding of Sun Pharmaceuticals Limited, the Senior Resident Magistrate on the 21st

August, 2022, issued warrants of arrest against them. They were not aware of warrants issued against them until 3 months or so ago when they were produced as exhibits in court in a civil suit they brought against certain Police Officers resulting from their abduction. From the time the warrants of arrest were issued against them to date, they have not been charged or brought before any Court on any fraud related matters concerning the shareholding in Sun Pharamaceuticals Limited.

- 2.6 They are now desirous of challenging the decision by the Chief Resident Magistrate to issue warrants of arrest against them but were unable to apply for leave to commence judicial review proceedings within the requisite three (3) months period as they only became aware of the said decision in March, 2025.

3.0 The applicants' skeleton arguments and list of authorities

4.0 The respondent's affidavit in opposition

- 4.1 The respondent on the 17th June 2025, filed an affidavit in opposition sworn and deposed to by Banda Pelekamoyo a Senior Clerk of Court at the Lusaka Subordinate Court who avers that: On the 21st August, 2022 warrants of arrest were issued against the applicants and is not aware of any court proceedings or court decision that questions or cancels the warrants issued by the respondent.
- 4.2 The affidavit in support shows that the applicants only became aware of the warrants of arrest in March 2025 and does not provide any explanation of how the applicants remained unaware of the warrants of arrest issued in August 2022 until March 2025. The affidavit does not clearly explain the reasons for seeking an extension of time to apply for judicial review.

5.0 The respondent's skeleton arguments and list of authorities

5.1 In their arguments filed on even date counsel for the respondent made reference to *Order 53/4/1* of the *Rules of the Supreme Court 1999 Edition* which provides that:

“An application for leave to apply for judicial review shall be made promptly in any event within three months from the date when grounds for the application first arose unless the court considers that there is good reason for extending the period within which the application shall be made.”

Counsel argued that the foregoing provision is couched in mandatory terms, that *Order 53/14/58* of the *Rules of the Supreme Court* referred to by the applicants, empowers this court with discretion to refuse leave if there has been undue delay, particularly if such delay would be detrimental to good administration. That the application for extension of time was not made promptly but made in May 2025, more than two years and eight months later which is inordinate delay by any reasonable standard.

5.2 It was counsel's contention that the applicants claimed that they only became aware of the warrants in March, 2025 when exhibited in unrelated proceedings. That however, the law is clear that time begins to run from the date the decision was made and not from when the applicants became aware of it. Further that the failure to act undermines the principle of prompt justice as *Order 53 Rule 4 (1)* of the *Rules of Supreme Court* does not provide that time begins to run upon discovery of the decision. Rather that the said provision states that the application must be made promptly within three (3) months from the date when the grounds for the application first arose, which in this case is 21st August, 2022. Counsel was of the view that the applicant's claim that they only became aware of the warrants in March 2025 did not alter this legal requirement.

5.3 Counsel argued further that although the applicant's claim that they were unaware of the warrants, they have not demonstrated good reason for the delay, as required by *Order 53 Rule 4 (1)* of the *Rules of the Supreme Court*. That the burden lies on the applicants to show good reason for failing to act within the prescribed time as was held by the Court of Appeal in the case of **Sitali Vs Anti-Corruption Commission**¹ where it stated that:

"The applicant must show that the delay was justified by the surrounding circumstances."

5.4 That in this premise, the applicants' explanation rests solely on the claim of awareness but they do not describe any of the surrounding circumstances in which that awareness persisted for such an unusually long period. That without those details, it was difficult to assess whether the delay was excusable or simply convenient. On this basis, counsel argued that the delay remains inordinate, unexplained and unjustified as the threshold for establishing "good reason" has not been met. Counsel argued that the courts have consistently emphasized the importance of adhering to timelines in litigation. For this argument reference was made to the cases of **Nahar Investment Limited Vs Grindlays Bank International (Z) Ltd**² and **D.E Nkhuwa Vs Lusaka Tyre Services Ltd**³.

5.5 In concluding their arguments counsel submitted that accepting unexplained or poorly explained delays of this nature would defeat the principle of finality in litigation and that the applicant failed to promptly make their application that the delay is inordinate an unexplained. Further that the applicants have not shown any good reason for the extension of time and that the grant of the same would cause prejudice and be detrimental to good administration. With these arguments, counsel prayed that that application for extension of time be dismissed with costs to the respondent.

6.0 Decision of the Court

6.1 The applicant moved this court by way of a Notice of Motion and placed reliance on *Order 53 Rule 4 (1)* and *Order 53 Rule 14 (58)* of the *Rules of the Supreme Court, 1999 Edition* which provisions state as follows:

“Order 53/4/1 An application for leave to apply for judicial review shall be made promptly and in any event within three months from the date when grounds for the application first arose unless the Court considers that there is good reason for extending the period within which the application shall be made.”

“Order 53/14/58 Application for leave for judicial review must be made promptly, which in this context means as soon as practicable or as soon as the circumstances of the case will allow, and in any event such application must be made within three months from the date when grounds for the application first arose....For this purpose time starts to run from the date when the grounds for the application first arose.....

On the other hand, the court has power to extend time for applying for leave to move for judicial review, but only if it considers that there is a “good reason” for doing so.....The court will consider whether the grant of an extension of time for applying for judicial review will be likely to cause substantial hardship or prejudice, not only to the instant parties, but to a wider public or may be detrimental to good administration.”

6.2 In reading the aforementioned provisions it is evident that an application for leave to move for judicial review must be made promptly and in any event within three months from the date when the grounds for the application first arose. It is not in dispute that on the 21st August, 2022 the Senior Resident Magistrate issued warrants of arrest against the applicants. The applicants allege that they were not aware that warrants of arrest were issued against them until three or so months ago when the said warrants were produced as exhibits in court

in a civil suit. That as such the applicants are desirous of challenging the decision of the Subordinate Court to issue warrants of arrest against them by way of judicial review proceedings.

6.3 In applying the law to the facts, it is evident that the grounds for the application first arose when the said warrants of arrest were issued by the Subordinate Court. Counsel for the respondent has argued that while the applicants claim to have only become aware of the warrants three months ago, they have not demonstrated good reason for the delay. While I agree with counsel for the respondent's submissions that the applicants have not given a comprehensive reason why they only became aware of the issuance of the warrants against them three months ago it can also be gleaned however, that the applicants are not resident within Zambia. That being said I do not agree that the requirement for a "good reason" is limited to the reason for delay. In *casu* the applicants have given a detailed background of what they perceive to be the genesis of the issuance of the warrants against them at the instance of the beneficiaries of the estate of the late John Kalenga. The said beneficiaries allege that the applicants fraudulently acquired shares in Sun Pharmaceuticals Limited which position the High Court and Court of Appeal have since decided against. With this backdrop, it is my considered view that this is a "good reason" to allow the applicants question the decision of the Subordinate Court to issue warrants of arrest by way of judicial review.

6.4 The upshot of the matter is that the applicants are granted an extension of time for leave to move for judicial review which application must be made within 30 days of the date hereof.

Dated the..... day of 2025

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
12 NOV 2025
R. CHIBBABBUKA, J
Ruth Chibbabbuka
HIGH COURT JUDGE