**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**COMMERCIAL DIVISION**

**AT DAR ES SALAAM**

**MISC. COMMERCIAL APPLICATION NO. 25495 OF 2025**

**JCR ENTERPRISES LIMITED........................................... APPLICANT**

**VERSUS**

**TANGANYIKA INVESTMENT OIL&TRANSPORT.CO.LTD...... 1ST RESPONDENT**

**ENOC SUPPLY&TRADING(LLC)....................................... 2ND RESPONDENT**

**RULING**

*February 16th, 2026*
*April 10th, 2026*

**Morris, J**

In this application, the applicant seeks the leave of this Court to extend time for him to execute the decree obtained from Commercial Case No. 77 of 2007, dated 5th June, 2011 (**the Suit**). Other reliefs sought are; costs of this matter and any other remedy(ies) at the Court's discretion. The application has been preferred under sections 45 (2) and 105 of ***the Civil Procedure Code***, Cap 33 R.E 2023; together with section 2 (3) of ***the Judicature and Application of the Laws Act***, Cap 458 R.E 2023.

The affidavit of the applicant's principal officer, Captain Joseph Charles Roy supports it. The respondents were served with summons through publication. They neither presented their defence nor entered appearance in the Court. Consequently, on 16th December 2025, the Court ordered the present matter to proceed to the hearing stage in their absence (*ex-parte*). Hearing was conducted through written submissions which were timely filed by the applicant on 1st January 2026. The applicant was represented by Advoate John James Ismail of Law Associates, Advocates.

Before embarking on the determination of the application, I will account for a brief history of this matter. According to the affidavit mentioned above, the applicant won the suit against both respondents above in June 2011. Subsequently, he was awarded USD 2,478,207.00 being special damages; punitive interest at 36% per annum from the date of filing the suit to the date of judgment; interest at the court rate of 3% annually from the date of judgment to payment in full; and costs. The respondents appealed to the Court of Appeal against the applicant's victory. They were unsuccessful. Their appeal was dismissed in 2016.

Due to various factors including, inaction of the instructed advocate to process execution of the decree and his replacement thereof; disposition of the properties and liquidation of first respondent (judgment debtor); tracing of the second respondent (judgment debtor)'s property locally and abroad; and immunity of the latter respondent's assets against attachment and sale, time ran against the applicant-decree holder. These grounds are reflected under paragraphs 9 to 17 of the affidavit in support hereof. Hence, this application has been preferred to remedy the legal consequences of the subject applicant's unpunctuality.

The applicant's counsel argued in support of this application by prefacing the chronological layout of this matter first. He then stated that execution proceedings were at first kept in abeyance pending the outcome of the appeal. That, thereafter the advocate who was duly instructed to pursue the execution of the decree in 2016 (Mr. Kennedy Fungamtama), did not do the needful in time such that by the time the alternative legal services were obtained by the applicant; various inhibiting factors against execution had arisen. Those factors were that: the first respondent disposed of all its assets and underwent receivership; the second respondent's properties in

Dubai, UAE - its home jurisdiction, were immune from attachment because he was a state-owned entity; and all early searches for the respondents' assets worldwide did not result into fruition.

To the applicant, he did not sleep on his rights howsoever. To the contrary, the respondents intentionally devised illegal strategies in order to frustrate execution of the decree herein. Likewise, he contended that the Court is empowered under section 45 (1) and (2) of ***the CPC*** to grant leave for execution of the decree beyond twelve (12) years in exceptional circumstances including fraud by the judgment debtor. Blending the provisions of the law into the current matter, he asserted that the first respondent fraudulently concealed and disposed his assets so as to thwart execution.

Further, it was his contention that pursuant to section 44 of ***the Law of Limitation Act***, Cap. 89 R.E 2023 (***LLA***); the Minister's powers to extend limitation periods, is not applicable to execution of decrees because the subject provision was declared unconstitutional by this Court. To him, in the absence of any other law to the contrary, the inherent powers of this Court together with the reception of common law principles should be invoked. He cited sections 105 of ***the CPC*** (for the ends of justice or to prevent abuse of the process of the court); and 2 (3) of ***the Judicature and Application of Laws Act***, Cap. 358 R.E 2023 (invocation of the common law and doctrines of equity) respectively.

In addition, he submitted that the application for extension of time is sustainable only when a "good cause" or "sufficient reason" for the delay is exhibited by the applicant. Reference was made to the cases of ***Lyamuya Construction Co. Ltd v. Board of Registered Trustees of YWCA of Tanzania***, Civ. Appl. No. 2 of 2010; ***Mwangi v Kenya Airways Ltd*** [2003] eKLR; and ***EAL Ltd v National Housing & Construction Corporation*** [2004] 2 EA 155.

Regarding delayed execution, the applicant stated that where a decree-holder acts diligently and vigilantly principles of equity favour his cause. Hereof he cited ***Mary Mchome Mbwambo & Another v Mbeya Cement Co. Ltd***, Civ. Appl. No. 271/01 of 2016; ***Royal Insurance Tanzania Ltd v Kiwengule Stand Hotel Ltd***, Civ. Appl. No. 111 of 2009; ***African Banking Corporation (T) Ltd v George Williamson Ltd***, Civ. Appl. No. 349/01 of 2018; ***Heritage Insurance Co. Ltd v Sabians***

***Mchau & 2 Others***, Civ. Appl. No. 284/09 of 2019; ***Mohamed Enterprises (T) Ltd v. Thanh Hoa Ltd & Others***, Misc. Civ. Appl. No. 220 of 2023; and ***Adam Messer & Another v Honora (T) Public Ltd Co.***, Misc. Comm. Appl. No. 21861 of 2024.

In order to impress the Court further, he argued that in line with ***Lowsley v Forbes (Trading as L E Design Services)*** [1999] 1 AC 329, a mere effluxion of time does not extinguish a judgment; ***Collector, Land Acquisition, Anantnag & Ors v Mst. Katiji & Ors*** (1987) AIR 1353, substantial justice deserves to be preferred; and ***Raghunath Rai Bareja v Punjab National Bank*** (2007 2 SCC 230); procedural bars ought not defeat substantive rights where sufficient justification for delay is established respectively. On the basis of the reasoning and authorities above, the applicant reiterated his prayer for the application.

Having summarised the pertinent depositions and submissions of the parties, the Court now sets for determination of one issue: whether this application is grounded on sufficient cause of the delay. Law is settled that the applicant should demonstrate sufficient reason(s) as to why he/she did not take the necessary step(s) in time. In so doing, he/she will discharge the obligation of proving how each day of delay justifiably passed by at no applicant's fault.

Besides, the law sets time limits not for cosmetic reasons. There are objectives to achieve. **One**, to promote the expeditious dispatch of litigation [*Costellow v Somerset County Council* (1993) IWLR 256]. **Two**, to provide certainty of timeframe for the conduct of litigation [***Ratman v Cumara Samy*** (1965) IWLR 8]. **Three**, to enhance public trust to the judicial system. **Four**, to manage resources effectively. Consequently, it works in the advantage of party's proper management of time and money.

Furthermore, undisputable is the position of the law that the Court's power to extend time is discretional in nature. But such discretion is exercisable judiciously. That is, free from personal whims, sympathy, empathy or sentiment. See, ***Bakari Abdallah Masudi v Republic***, CoA Criminal Application No. 123/07 of 2018 and ***Bank of Tanzania v Lucas Masiga***, Civil Appeal No. 323/02 of 2017 (both unreported).

In the current matter, the applicant primarily attributes the tardiness herein to the circumstances which he referred to as being orchestrated by the Respondents in order to thwart the execution proceedings. One of such factors is deposed as being fraudulent disposition of all properties of the first respondent and its illegitimate liquidation. Likewise, he asserts that the second respondent did not heed to orders in the decree because he enjoys the legal immunity against his properties being attached and sold in execution of the Court's decree. To the applicant, a considerable amount of time was spent in tracing the judgment debtors' assets. In other words, the applicant was prevented by the respondents' manipulative schemes which defeated the sustainability of any execution proceedings that he would activate.

This application, as indicated above, was not controverted anyhow. As such, the depositions by the applicant remain uncontested. The Court therefore is at liberty to take a liberal inference that all that is deposed by or in favour of the applicant are the truth. The remaining aspect is for the Court to analyse if such factors constitute a ground or grounds that are sufficient to sustain the prayers herein. Indeed, fraud is a criminal undertaking. The purported benefits to the judgment debtors cannot be condoned by the Court.

It is a long-settled principle of the law that, one cannot/should not benefit from own wrong. See for instance, ***Godson S. Munuo vs Umoja Savings and Credit Co-operative Society Limited***, Civil Appeal No. 480 of 2023 [2025] TZCA 282; and ***Hawa Mohamed vs Ally Seif***, Civil Appeal No.9 of 1983 [1983] TZCA 22.

I have taken time to study the documents attached to the affidavit, in particular, the ones relating to disposition and appointment of the receiver in regard to the first respondent. The dates thereon indicate that the decision to take such route was taken in the subsistence of the decree herein. Further, none of such credentials reveal that the respective respondent registered the liabilities in favour of the applicant howsoever.

The law is clear in regard to the decree being in the interest of its holder. Hence, illegal schemes cannot be used to defeat its execution. On this basis, the Court finds that the applicant was prevented by the respondents' unscrupulous strategies to defeat execution of the decree.

The foregoing analysis and reasoning leads to one conclusion in respect of the issue framed above - holding in its favour, as I hereby do. Consequently, the Court grants leave to the applicant to file the application for execution within **fourteen (14) days** of this ruling. No order as to costs is entered hereof.

It is so ordered.

**C.K.K. Morris**

**Judge**

**April 10th, 2026**