

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(LAND DIVISION)**

**AT DAR ES SALAAM**

**MISC. LAND APPLICATION NO. 396 OF 2018**

*(Originating from Land Case No. 112 of 2011)*

**GREY INVESTMENT COMPANY LIMITED ..... APPLICANT**

**VERSUS**

**HASHIM ALLY SECHONGE ..... 1<sup>ST</sup> RESPONDENT**

**PREMLATA SURESH PATEL ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

**S.M. MAGHIMBI, J:**

The applicant before me is seeking for extension of time within which to file an appeal against the decision of this court in Land Case No. 112/2011 dated 15/09/2016. The application was lodged under Section 11(1) of the Appellate Jurisdiction Act, Cap. 141 R.E 2002. Along with her counter affidavit, the respondent herein raised preliminary points of objection that:

1. The application is bad in law for containing defective jurat.
2. The Chamber Summons is defective because it was given and signed by the Deputy Registrar on the 04/09/2018 while it was presented for filing on 29/06/2018.

The respondent hence prayed that the application be dismissed with costs. On my part however, I see no need to dwell on determination of the

objection for the reason that; following the recent amendments of Section 47(1) of the Land Disputes Act, Cap. 216 by Section 9 of the Written Laws (Misc. Amendments) (No. 2) Act, 2018, Act No. 8 of 2018, leave to appeal is no longer a requirement when a party intends to appeal against the decision of this court in its original jurisdiction. Therefore even if I am to determine the objections and find the application incompetent, it will just be an academic exercise because the applicant herein will be under no obligation to apply for leave to appeal to the Court of Appeal. The same would be the case if I overrule the objection and proceed to extend time to the applicant; the intended application is no longer a pre-requisite.


In the case of **Lala Wino Vs. Karatiu District Council, Civil Application No. 132/02/2018** (unreported) while faced with an application for extension of time to apply for leave to appeal against the decision of this court in its original jurisdiction, while elaborating the effects of the cited amendments of the law, His Lordship Ndika J.A had this say:

*"In consequence, even though both the judgments the subject matter of the intended appeal and the present application preceded the amendment at hand, the applicant's intended appeal would no longer be subject to obtaining leave of the High Court to appeal to this court. In the premises, the applicant's present pursuit for extension of time to apply for leave to appeal is of no useful purpose, it has been overtaken by events".*

As for the case at hand, it is on the same spirit that the intended application for leave is overtaken by events, hence I see no reason to dwell

on the objections raised. Consequently, the application is hereby struck out for having been overtaken by events. The respondents shall however have their costs for the preliminary objections as they had already raised and argued them.

Dated at Dar-es-Salaam this 04<sup>th</sup> day of September, 2019

  
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**S.M MAGHIMBI**  
**JUDGE**