

**IN THE HIGH COURT OF TANZANIA
AT DAR ES SALAAM**

MISC.CIVIL APPLICATION NO.64 OF 2005

**THE CHAIRMAN BUNJU VILLAGE GOVERNMENT
& 11 OTHERSAPPLICANTS**

VERSUS

**THE REG. TRUSTEES OF THE ARCHDIOCESE OF
DSM.....RESPONDENT**

R U L I N G

A.Shangwa,J.

This is an application for leave to file an appeal out of time against the proceedings and decision of the Court of the Resident Magistrate at Kisutu in Civil Case No.51 of 2003 in which judgment was entered in favour of the plaintiff / Respondent on grounds that the defendants / Applicants did not file their written statement of defence within time. The

application is supported by the affidavit of Gregory Charles Nhagala Lugaila.

The dispute between the parties concerns trespass on land. The Respondent is alleging that the Applicants are trespassers on farm No.2846, Mabowe, Pande, Bunju area, Dar es Salaam. The major reason which was given by the Applicants for their failure to file a written statement of defence within time is that they were looking for an amicable political settlement of their dispute out of Court which did not materialize as expected.

Taking into consideration the fact that this is a serious dispute between the parties concerning trespass on land, and the fact that the plaintiff / Respondent's suit was filed under O.XXV of the Civil Procedure Code 1966- **Summary procedure** which means that the defendants / Applicants

could not defend the suit before obtaining leave of the trial magistrate to do so; I do allow this application for leave to appeal out of time . I think that their intended appeal against the proceedings and judgment of the trial Court has a very big chance of success. The Applicants should file their appeal within thirty days from today.


A. Shangwa, J.**6/12/2005**

Delivered in open Court this 6th day of December, 2005.


A. Shangwa**JUDGE****6/12/2005**