

IN THE HIGH COURT OF TANZANIA

AT ARUSHA

MISC. LAND APPLICATION NO. 212 OF 2013.

NDALAMIA KIRASIAN.....APPLICANT

Versus

BABU LALAITORESPONDENT

Date of last Order: 25/04/2014

Date of Ruling: 19/05/2014

RULING.

F.H. Massengi, J.

Applicant Ndalamia Kirasian is praying this court for ~~the~~ the following orders:-

- (a) To grant leave to the applicant to file the intended appeal against the judgment and decree No. 13/2010 in the District Land and Housing Tribunal for Simanjiro out of time.
- (b) Any other relief(s) as the Honourable Court may deem it just to grant.

When the application come up for hearing both parties appeared in person and agreed the application to be argued by way of written submissions which were filed accordingly.

In his affidavit and submissions applicant in supporting his application, demonstrated the cause of delay to file his intended appeal in time was due of being supplied with a defective certified decree as it carried a different date with that of judgment. He has attached the said defective decree. To his affidavit on appeal No. 26/2012 on 25/10/2012. On 28/10/2013 that appeals was withdrawn with leave to refile the appeal. He did file Land Appeal No. 76 of 2013 which was rejected for being time

barred without seeking enlargement of time and hence the present application.

Respondent in opposing the application insisted that the application is time barred ought to be dismissed with costs.

I have gone through the records from which this application emanates and I am of the firm view that since the District Land and Housing Tribunal delivered its decision, the applicant has never rested without knocking the doors of the court trying to fetch for his legal rights and the doors have never been opened to him. The Tribunal contributed to him being locked out. The Tribunal didn't supply him with a proper decree and in obtaining the proper decree, time was against him. In Land Appeal No. 26 of 2012 before this court where applicant was appellant and respondent was respondent as well respondent did raise the objection of the appeal being time barred but that objection was overruled. Later this court went back and maintained the same objection which is now subject of the present application. I find that the applicant has established a reasonable cause of delay and I hereby grant his application of extension of time to file his intended appeal within 45 days from the date of obtaining this ruling. No orders as to costs.

SGD:

F.H. MASSENGI

JUDGE

19/5/2014

Delivered in Court this 19th May, 2014 in presence of both parties.

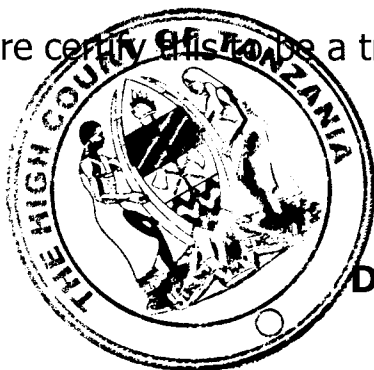
SGD:

F.H. MASSENGI

JUDGE

19/5/2014

I here certify this to be a true copy of the original.



[Handwritten Signature]
DISTRICT REGISTRAR

ARUSHA

2/6/14