

IN THE HIGH COURT OF TANZANIA

AT BUKOBA

MISC. LAND CASE APPEAL NO. 73 OF 2016

(Arising from the District Land and Housing Tribunal of Bukoba in Land Application No. 158/2015 and original Land Application No. 2/2015 Of Kishanda Ward Tribunal)

THEOPHIL ANDREA APPELLANT

VERSUS

DEUSI NDYAMKAMA RESPONDENT

JUDGMENT

04.12.2017 & 09.02.2018

BONGOLE, J.

At Kishanda Ward Tribunal the appellant sued the respondent for trespass into a piece of land. The Ward Tribunal ruled in favour of the respondent.

The appellant did not appeal on time against the said decision but later on applied for extension of time before the District Land and Housing Tribunal of Bukoba on ground of sickness.

The learned Chairman of District the District Land and Housing Tribunal dismissed the application and aggrieved he appealed

before this Court on two grounds contained in his petition of appeal. The main complaint on the grounds of appeal the learned Chairman erred in law and facts to dismiss his application because he had raised sufficient cause for delay that is, he was admitted at Rubya hospital. In his reply the respondent maintained that the appellant had no sufficient reason to warrant extension of time thus the decision to dismiss his application was correct.

At the hearing the parties were present in person but unrepresented. They had no elaboration of the petition and reply there to save they prayed this court to consider the respective documents.

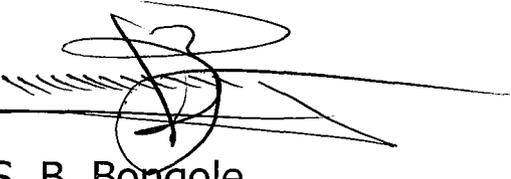
According to the record of this application, the main reason which made the applicant to move the District Land and Housing Tribunal to consider the application for extension of time was sickness that is, he was admitted. The medical chit (discharge form labelled "TAI") in support of this fact clearly indicates that the appellant was admitted at Rubya Hospital from 03.10. Up to 06.10.2015, the period within which he was supposed to process his appeal. The decision sought to be impugned was delivered by the Trial Tribunal on 10.09.2015. The fact that he was admitted around this period suggests that he could not have made follow

up in pursuing his rights in court. In my view this is a sufficient cause for extension of time. The learned Chairman erred in law to hold that the applicant had not given reasonable cause for delay.

That said and done, the decision of the District Land and Housing Tribunal is hereby quashed and set aside. Wherefore, extension of time to file appeal before the DLHT is granted. The applicant to lodge his appeal 14 days from the date of this judgment.

Cost to follow the event.




S. B. Bongole,

Judge

09.02. 2018