

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(ARUSHA DISTRICT REGISTRY)**

AT ARUSHA

MISC LAND APPLICATION NO. 221 OF 2016

*(Arising from High Court (Land Division) at Arusha in Land Appeal No. 15
of 2004 as per Hon. Mziray, J)*

KELOI MADORE APPLICANT

VERSUS

MEPUKORI MBELEKENI1ST RESPONDENT

MTI MMOJA VILLAGE COUNCIL 2ND RESPONDENT

I. MAIGE, J

RULING

This is an application for extension of time to file an application for leave to appeal to the Court of Appeal of Tanzania ("CAT") against the decision of the High Court (Land Division) in Land Appeal No. 15/2004 as per His Lordship Judge Mziray as he then was. The application is made under section 11 of the Appellate Jurisdiction Act.

The grounds in support of the application are laid out in the affidavit of KELOI MADORE, the Applicant. It has been factually opposed by the counter affidavit of MEPUKORI MBELEKINI, the first respondent.


On the date of hearing, the parties appeared in persons and were unrepresented. In his brief oral submissions, the applicant adopted the factual deposition in the affidavit and urged the Court to grant the application with costs. In the same way, the first respondent adopted what are in his counter affidavit and requested the Court to dismiss the application with costs. On its part, the second respondent did not appear neither file a counter affidavit. There was an order on the record, by my predecessor judge, to have the matter entertained in the absence of the second respondent.

The position of law on the conditions for the grant of an application for extension of time is settled. The applicant is obliged to assign sufficient reasons that prevented him or her to pursue his action with the prescribed time. On top of that, he has to account for every day of delay.

The judgment of this Court sought to be appealed against was delivered on 2/07/2012. The applicant, it is common ground, preferred Civil Appeal No. 64 of 2013 which was, on 3rd day of March 2014, struck out for the reason

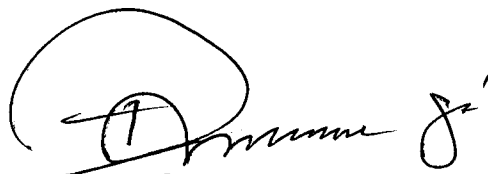
of being preferred with a leave of the High Court. Consequential to the dismissal, the applicant filed an application for extension of time to file a notice of appeal which was dismissed by my sister judge Opiyo for being without merit. In his the second bite to the Court of Appeal vide Civil Application No. 13 of 2016, the applicant was successfully. The Court of appeal granted, on 26th October 2016, an extension of time to lodge a notice of appeal. In accordance with the decision of the Court of Appeal, a notice of appeal was to be filed within 21 days from the date of the ruling. It was thus to be filed by 6th November 2016. This application has been filed on 22nd November 2016, being hardly 16 days from the date of the expiry of the order for filing a notice of preliminary objection. For a person who is unrepresented, the period 16 days is reasonable for preparing and filing the instant application.

For the those reasons therefore, I find that sufficient cause for extension of time exists. The application is henceforth granted. The applicant should file his application for leave to appeal to the Court of Appeal within 30 days from today. No order as to costs.


I. MAIGE
JUDGE
16/11/2018

Ruling delivered this 16th day of November 2018 in the presence of the applicant and first respondent in persons and in the absence of the second respondent.




I. MAIGE
JUDGE
16/11/2018