

IN THE HIGH COURT OF TANZANIA

AT BUKOBA

LAND APPLICATION NO. 21 OF 2017

(Arising from Application No. 105 of 2015 of the District Land and Housing Tribunal Bukoba)

EMMANUEL RICHARD KAGYA-----APPLICANT

VERSUS

1. SIPENSIOZA LIANDEL | -----RESPONDENTS
2. GORDIAN DOMISIAN |

RULING

6/9/2018 & 7/9/2018

MLACHA, J.

The applicant, Emmanuel Richard Kagya filed an application against the respondents, Spensioza Liandel and Gordian Domisian seeking the following the following orders.

“1. That this honourable court be pleased to extend time within which to appeal before this honourable court albeit out of time.

2. Costs of this application.

The application was made under Section 41(2) of the Land Disputes Courts Act Cap. 216 R.E. 2002 as amended by the

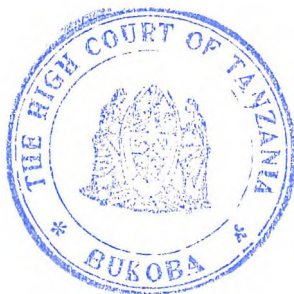
Written Laws (Miscellaneous Amendment) (No.2), Act 2016, Order XLIII rule 2 of the Civil Procedure Code Act Cap. 33 R.E. 2002 and it was supported by the affidavit of the applicant. The affidavit carried some annextures which included a Referral Treatment letter for Mr. Emmanuel Richard Kagya and an outpatient credit bill from Muhimbili Orthopedic Institute. No Counter Affidavit was filled to oppose the application.

Ms. Aneth Lwiza Advocate represented the applicant while the respondents had the services of Ms. Theresia Bujiku. When the case was called for hearing, Ms. Theresia Advocate informed the court that they had no objection to the application.

I have considered the application closely. The law provides for a person who is aggrieved by the judgment of the district Land Housing Tribunal in its *original jurisdiction* to appeal to this court within *45 days*. The court is given power to extend that period upon good cause being shown (See Section 41(2) of the Land Disputes Courts Act as amended by the Written Laws (Miscellaneous Amendment) (No.2), Act 2016,). The applicant in

this case is late. He has brought evidence through his affidavit and annexures to show that he was involved in a car accident and had to attend to various hospitals and clinics including Muhimbili Orthopaedic Institute Dar es Salaam. The respondents do not oppose this fact. Sickness of a party in the period under consideration, if proved to exist, in my view, constitutes a good excuse in an application of this nature. Sickness is an act of God. It is an event beyond the control of a party. It is a good reason upon which extension of time may be granted.

That said, this application which was meant to seek extension of time within which to lodge an appeal to this court against the decision of the District Land and Housing Tribunal for Kagera at Bukoba is granted. The applicant is given 14 days within which to lodge the appeal. I make no order as to costs.



L.M. Mlacha

Judge

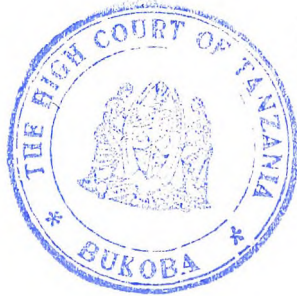
7/9/2018

Court: Ruling delivered in the presence of Ms. Annet Lwiza for the applicant who also held the brief of Ms. Theresia Advocate for the respondents.



L.M. Mlacha

Judge



7/9/2018