

**IN THE HIGH COURT OF TANZANIA**

**IN THE DISTRICT REGISTRY**

**AT MWANZA**

**MISC. LAND APPLICATION NO. 21 OF 2020**

(Arising from decision of District Land and Housing Tribunal for Geita at Geita in  
Miscellaneous Application No. 44 of 2018, dated on 5<sup>th</sup> July, 2019)

**ZAKARIA SANYENGE .....APPLICANT**

**VERSUS**

**JAMES LUFUNGA .....1<sup>ST</sup> RESPONDENT**

**ZAKARIA KIVURUGA (Administrator of the Estate**

**of the late Kasongi Njigo) .....2<sup>ND</sup> RESPONDENT**

**RULING**

**01 & 10.06.2020**

**RUMANYIKA, J.:**

The application for extension for extension of time within which, with respect to decision of 5/7/2019 of the District Land and housing Tribunal for Geita (the DLHT) Zakalia Sanyenge (the applicant) to apply for revision is brought under Section 14 (1) of the Law of Limitation Act Cap 89 RE. 2002. It is supported by affidavit of Zakaria Sanyenge whose contents essentially Mr. B. Msalaba learned counsel adopted during the hearing. Mr. Felix Kagimbo learned counsel appeared for James Lufunga and another (the respondents).

Following global outbreak of the Coronavirus pandemic and pursuant to my order of 7/5/2020 the parties were present online, by way of Audio Teleconferencing I heard them through mobile numbers 0765 777997 and 0784 544 244 respectively.

Mr. B. Msalaba learned counsel submitted that the grounds for extension were; **(a)** that the applicant got a copy of the impugned decision late in December 2019 **(b)** that there in between the applicant changed advocates hence lapse of the required sixty (60) days **(c)** that one invoked wrong provisions of GN. No. 174 of 2003 and also the respondents took advantage of it.

Mr. F. Kagimbo learned counsel adopted contents of the counter affidavit and submitted; **(1)** that the delay was due to the applicant's inaction as he received copy of the impugned decision on 5/12/2019 but without reasons it took him say 3 ½ months to file the instant application and did not tell when exactly he procured service of the present advocate therefore no single day was accounted for therefore no sufficient ground assigned. **(2)** That in the ward tribunal the applicant had no **locus standi** thus a nullity proceedings (case of **Bushiri Hassan V. Latifa Likiyo Mashayo**, Civil Application No. 3 of 2007, CA (unreported)). We shall pray that the application be dismissed with costs the learned counsel further contended.

The issue is whether the applicant has assigned a sufficient ground for extension of time. The applicant may have not accounted for each day of the delay for two main reasons; **one**, like Mr. Kagimbo correctly argued,

the applicant did not sufficiently show when exactly he procured services of the present advocate, **two** one may have applied for and he made several follow ups but he did not establish when exactly he received copy of the impugned ruling much as no copy of the exchequer receipt, if at all he paid the fee. With respect to point of illegality, one may have improperly invoked provisions of GN. No. 174/2003 yes, but with invent of the principles of overriding objective the point was not such a big deal.

Nevertheless now that with respect to execution in the DLHT it was only objection proceedings which one, upon being granted the DLHT should have lifted the warrant of attachment or the respondent sue for recovery of the disputed land where the application for objection proceedings was dismissed as the case may be, frankly speaking in the present case I could not know whether the application for objection proceedings was granted or dismissed or in the end each party "took a little" whether or not given the mixture of jurisdiction, no joinder of the parties and **locus standi** the chair was at loss it was immaterial. What appoint of illegality! Suffices the point of illegality to dispose of the application.

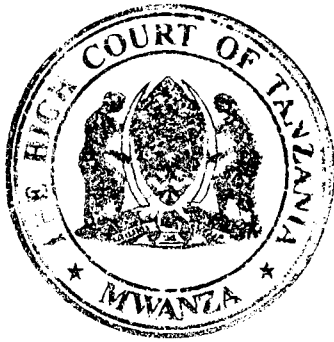
The application for extension of time is granted with costs. It is ordered accordingly.

Right of appeal explained.



**S. M. RUMANYIKA**  
**JUDGE**  
**07/06/2020**

The ruling is delivered under my hand and seal of the court in chambers this 10/6/2020 in absence of the parties with notice.



  
**S. M. RUMANYIKA**  
**JUDGE**  
**10/06/2020**