

IN THE HIGH COURT OF TANZANIA

IN THE DISTRICT REGISTRY

AT MWANZA

MISCELLANEOUS LAND APPLICATION NO. 39 OF 2020

(Arising from Misc. Civil Application No. 08/2018 in the High Court of Tanzania in the District Registry Mwanza)

NGECHE WAMBURA 1ST APPLICANT

THOMAS WAMBURA NGECHÉ 2ND APPLICANT

VIJJI MNIKO NSAME 3RD APPLICANT

MSAMBA MWITA MEKOMA 4TH APPLICANT

JUMANNE WAISAGARA MNIKO 5TH APPLICANT

VERSUS

IBRAHIM CHACHA NCHAMA RESPONDENT

JUDGMENT

10 & 25/06/2020

RUMANYIKA, J.:

The application for extension of time, with respect to decision of 24/01/2019 of this court (Siyani, J.), Ngeche Wambura and 4 others (the applicants) to apply for review is brought under Section 14 of the Law of Limitation Act Cap 89 R.E. 2002. It is supported by joint affidavit of the applicants whose contents essentially Mr. E. Njau learned counsel for the applicants adopted during the hearing. Mr. D. Mahemba learned counsel appeared for Ibrahim Chacha Nchama (the respondent).

Judge was right because he could not have overruled his fellow Mwanza High court judge.

The issue is whether the applicants have assigned a sufficient ground for extension of time. The answer is no; **One;** Having had their application for leave been dismissed on 24/01/2019. The applicants may have been on court corridors pursuing multiple cases on different occasions instituted by them yes but improperly. Like Mr. D. Mahemba learned counsel argued, be it in terms of procedural or substantive law improperly instituted cases or one going to wrong forum it constituted no sufficient ground for extension of time leave alone ignorance and or negligence on the part of the applicant. After all the supporting affidavit did not state what were the cases that delayed them. **Two;** whether or not in previous and current records the respondents' names were at variance, the assessor's opinion were ignored or such other illegalities all this was immaterial much as the applicants did not dispute the fact that out of the 11 grounds of appeal the applicants abandoned all except one on **quantum** of damages. Like my brother judge held, it was therefore expected that if anything, the application for leave be confined only to the single issue of quantum of damages. If the present application was whole sale granted therefore, there is no wonder in the end Judge Siyani was going to be faulted on matters that were not raised, deliberated by parties and decided by him. **Three;** even for the sake of argument the application for leave to appeal was properly before my brother judge but improperly, which I insist it wasn't, the aggrieved applicant should have appealed instead of coming here by way of review because unless the process was otherwise legally

blocked, review proceedings had never been appeal in disguise or alternative of each other. **Four;** Even if only for the sake of argument there was, in the impugned decision some points of illegality, yet without telling what it was, the applicants' complaint was too vague and or omnibus to convince any reasonable tribunal to grant extension of time. The issue of preempting the applicant therefore it shouldn't have been raised.

In the upshot the devoid of merits application is dismissed with costs. It is ordered accordingly.

Right of appeal explained.

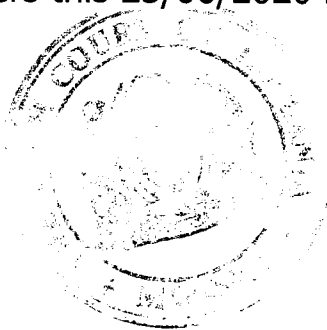


S. M. RUMANYIKA

JUDGE

14/06/2020

The Ruling is delivered under my hand and seal of the court in chambers this 25/06/2020 in absence of the parties with notice.



S. M. RUMANYIKA

JUDGE

25/06/2020