

**THE UNITED REPUBLIC OF TANZANIA**  
**JUDICIARY**  
**THE HIGH COURT OF TANZANIA**  
**IN THE DISTRICT REGISTRY OF MBEYA**  
**AT MBEYA**

**MISC. LAND APPLICATION NO. 54 OF 2019**

*(Arising from the District Land and Housing Tribunal of Mbeya at Mbeya Land  
Application No. 154 of 2018)*

**CHANKULILA SICHINGA ..... APPLICANT**

**VERSUS**

**WILLY JOHN PILLA ..... RESPONDENT**

**RULING**

*Date of Ruling: 19.06.2020*

**DR. MAMBI, J.**

This is an application for an extension of time to appeal out time made under Section 41 (2) of the Land Disputes Courts Act, 2002 as amended by Act No.2 of 2016 and section 14(1) of the Law of Limitation Act, Cap 89 [R.E.2002]. The applicant in his application supported by an affidavit sought an extension of time to file an appeal out of time to challenge the decision of the District Land and Housing Tribunal of Mbeya in Application No. 154 of 2018.

During hearing both parties were unrepresented. The applicant in his submission submitted that he has e filed the application for extension of time to file his appeal out of time since he has

sufficient reasons for his delay. He argued that he was sick and he received the proceedings and Ruling from the Tribunal late. He averred he has sufficient reason that will move this Court to grant him the extension of time so that he may pursue reference before this Court.

In response, the respondent briefly submitted that the applicant affidavit does not show sufficient reasons for the delay since the applicant has not counted for each date from his delay. He argued there is no proof if the applicant was sick and if he was sick he did not show how he was preventing from appealing in time. He contended the matter has taken a long time that is thirty five days since the applicant was supplied with the copy of the tribunal ruling.

I have considerably perused the documents such as affidavit and other documents on the file and considered the submissions made by both parties through their advocates to find out whether this application has merit or not.

The position of the law with regard to this type of application is clear that where any party seeks for an extension of time to appeal out of time he is required to advance sufficient reasons in his affidavit before the court can consider and allow such application. In this regard, I wish to refer the decision of the Court of Appeal of Tanzania in ***REGIONAL MANAGER, TANROADS KAGERA V. RUAHA CONCRETE COMPANY LTD CIVIL APPLICATION NO.96 OF 2007 (CAT unreported)***. The court in this case observed that;

*“the test for determining an application for extension of time, is whether the applicant has established some material amounting sufficient cause or good cause as to why the sought application is to be granted”.*

This means that in determining an application for extension of time, the court has to determine if the applicant has established some material amounting sufficient cause or good cause as to why the sought application is to be granted. This means that the court needs to consider an issue as to whether the applicant in his affidavit has disclosed good cause or sufficient reasons for delay. In other words, the court need to take into account factors such as reasons for delay that where the applicant is expected to account of cause for delay of every day that passes beyond the aforesaid period, lengthy of the delay that is to shown such reasons were operated for all the period of delay.

Reference can be made to the decision of the court in **BARCLAYS BANK TANZANIA LTD VERSUS PHYLICIAN HUSSEIN MCHENI**; Civil Application No 176 of 2015: Court of Appeal of Tanzania at Dar es Salaam (Unreported) where it was underscored that;

*“Among factors to be considered in an application for extension of time under Rule 10 of the Court of Appeal Rules, 2009 are:-*

- (a) The length of the delay*
- (b) The reason of the delay – whether the delay was caused or contributed by the dilatory conduct of the applicant?*
- (c) Whether case such as whether there is a point of law or the illegality or otherwise of the decision sought to be challenged.”*

My perusal on the applicant's document including his affidavit in line with his submission has found that the applicant did not indicate reasonable or sufficient cause to enable this court to consider and grant his application. The records as also admitted by the applicant in his affidavit show that the Ruling was delivered on **02/04/2019** and the Ruling was certified in **29/04/2019** ready for collection but the applicant just kept quiet until **31<sup>st</sup> July 2019** (three months later) when he decided to file this application. The applicant has attached a copy of the document (payment receipt) from Tunduma health Centre but that document does not show if he was admitted or he was seriously sick or he was issued with an ED to make not to appeal for ninety days. One could ask the question that can this amount to sufficient reasons?. In his affidavit, the applicant is saying that he was seriously sick and became inactive until 25 July 2019 but has failed to count for each of his delay. The documents from the hospital do not reveal if the applicant was admitted or was attending the hospital for three month continuously. In my view this cannot be said to be the sufficient reasons for delay as the applicant was required to show what blocked or bared him from filling his appeal and application and even this application immediately after the ruling. Indeed the applicant has not made due diligent to purse his matter if he was sick. The question as to what it amounts to "sufficient cause" was underscored in **REGIONAL MANAGER TANROADS KAGERA VS RUAHA CONCRETE CO LTD CIVIL APPLICATION NO 96 of 2007**, where the court observed the following:-

*“What constitutes sufficient reasons cannot be laid down by any hard or fast rules. This must be determined by reference to all the circumstances of each particular case. This means **the applicant must place before the court material which will move the court to exercise judicial discretion in order to extend time limited by rules**”(emphasis supplied).*

The court in **KALUNGA AND COMPANY, ADVOCATES Versus NATIONAL BANK COMMERCE LIMITED (supra)** held that:

*“Under **Rule 8 of the Court of Appeal Rules 1979**, the Court has a wide discretion to extend time where the time has already expire, but where there is inaction or delay on the part of the applicant, there ought to be some kind of explanation or material upon which the Court may exercise the discretion given”.*

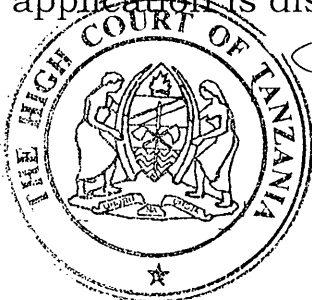
As underscored by the Court in **MEIS INDUSTRIES LTD AND 2 OTHERS VERSUS TWIGA BANK CORP; Misc Commercial Cause No. 243 of 2015**: High Court of Tanzania (Commercial Division) at Dar es Salaam (Unreported) observed that:

*“(i) An application for extension of time is entirely in the discretion of the Court to grant or to refuse it, and that extension of time may only be granted where it has been sufficiently established that the delay was with sufficient cause.....”*

The applicant is also saying that the duration of time elapsed delay is not a long time, but in my considered view in the absence of sufficient reasons and the fact that the applicant has not counted for each day for his delay, such duration is a long time for this court to grant extension of time. Looking at the affidavit by the applicant, I have not seen sufficient reasons for his delay as to why

stayed for one year without filling his application. The applicant in his affidavit did not indicate any sufficient reasons as to why he delayed to file his application for such a long time. As indicated under the records the applicant stayed almost **fourteen months** after the ruling was delivered on **11/06/2018** but the applicant just kept quiet until for such a long time before filed his application on 26/08/2019, I am of the considered view that, in the absence of really sufficient reasons, this was too long for one to be considered for an extension of time. As rightly pointed out by the respondent that there is no prove of any sufficient reasons under the applicant's affidavit.

From the above reasons, I am of the considered view that this application is non-meritorious and I hold so. In the circumstance, this application is dismissed.



**DR. A. J. MAMBI**

**JUDGE**

**19.06. 2020**

Ruling delivered in Chambers this 19<sup>th</sup> day of June, 2020 in presence of both parties.

**DR. A. J. MAMBI**

**JUDGE**

**19.06. 2020**