

IN THE HIGH COURT OF TANZANIA
MUSOMA DISTRICT REGISTRY
AT MUSOMA
MISCELLANEOUS LAND APPLICATION NO 30 OF 2020
BETWEEN

NYIRABU GETUNGUYE_____ **APPLICANT**

VERSUS

CHACHA WAMBURA_____ **RESPONDENT**

(Arising from the Decision and Orders in District Land and Housing Tribunal for Mara at Musoma, Hon. Kaare, Chairman, in Application No. 36 of 2016 dated 28. 04. 2017)

RULING

Date: 12.08.2020

GALEBA, J.

This is an application for extension of time. It is for extension of time to file an application for revision of the judgment of District Land and Housing Tribunal for Mara at Musoma in Application no. 36 of 2016.

Before this application was filed, there was a similar application in 2019. It was Land Revision No 9 of 2019. That previous application was assigned to me and I heard it, but finally I struck it out because the application was inconsequential as the judgment sought to be revised was appealable as of right, so it was the view of this court that a revision was not a tenable remedy in the circumstances and as such, the applicant if he wished he could have appealed or if it was late to do that he ought to have sought extension of time to appeal but not to file revision. Because of the above reasons on 17th April 2020,

I struck out that application for extension of time although it was captioned as a revision.

About two months later on 17.06.2020, this application was filed with this prayer in the chamber summons;

“(i) That this Honourable Court be pleased to grant extension of time to file the revision.”

When this application came up for hearing on 12.08.2020, Mr. Tuguta Mahemba and agent of the applicant who is also her brother having noted the above anomaly he prayed to withdraw the application. Mr. Chacha Wambura, the respondent had no objection with the withdrawal but he prayed for costs. Elaborating on that prayer he stated that his fare to and from home to Musoma is Tshs 10,000/= which is Tshs 5,000/= per trip. He submitted also that because of this application he had engaged Mr. Kurwa Sanya learned advocate to draw the counter affidavit and he had paid Tshs 20,000/= for that assignment and had paid that money already but he had not been given a receipt. In reply to the aspect of costs Mr. Tuguta Mahemba submitted that because this case is not yet over, he prayed that each party bears his own costs.

First, as this application was filed by the applicant whose agent has prayed to withdraw it, this prayer has not attracted any opposition from the respondent, then this application is hereby marked withdrawn.

The matter that remains unresolved is the issues of costs. The respondent prayed for Tshs 30,000/= being fare to and from court and also for Tshs 20,000/= for drawing the counter affidavit. However the counter affidavit had not been filed and he did not tender any receipt for having paid the said Tshs 20,000/= to Mr. Sanya being fees for drawing a counter affidavit. As for the fare this court notes that indeed the respondent was in court and he had to go back home and Mr. Mahemba did not object on the fare. Mr. Mahemba's argument that the case is still ongoing is not a valid argument because it is not mandatory for the applicant to file any further court matters, she could as well abstain from filing any other matters against the respondent. In the circumstances, the applicant is ordered to pay Tshs 10,000/= being fare from his home to court and from court to home for 12.08.2020 that amount of Tshs 10,000/= must be paid in 30 days from 12.08.2020. Costs or expenses for drawing the counter affidavit are refused because, the counter affidavit was not yet filed and there was no receipt of payment of that money to the advocate. It is so ordered.



Z. N. Galeba
JUDGE
12.08.2020