

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(IN THE DISTRICT REGISTRY OF ARUSHA)  
AT ARUSHA**

**MISC- CRIMINAL APPLICATION NO. 21 OF 2020**

*(C/F Criminal Case No. 06 of 2018, in the Resident Magistrates' Court of Arusha)*

**BONIFACE RICHARD MWAMBONEKE.....APPLICANT  
VERSUS  
DIRECTOR OF PUBLIC PROSECUTIONS.....RESPONDENT**

**RULING**

**MZUNA, J;**

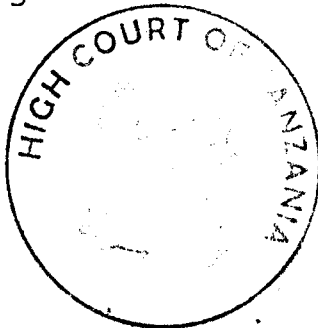
Since the DPP has no objection for this application, this Court do hereby grant leave to the applicant Boniface Richard Mwamboneke, to lodge an appeal out of time. Reasons are as stated in the accompanying affidavit.

Application granted. He should file the said appeal within 14 days from today.

By order.

**M.G. MZUNA  
JUDGE  
23/11/2020**

**Court:** Ruling delivered this 23<sup>rd</sup> day of November, 2020 in the presence of Ms. Mtenga learned State Attorney and the applicant.



  
**M.G. MZUNA  
JUDGE  
23/11/2020**

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(IN THE DISTRICT REGISTRY OF ARUSHA)**

**AT ARUSHA**

**MISC- LAND APPLICATION NO. 09 OF 2019**

*(C/F the decision of Karatu District Land and Housing Tribunal in Land Application No. 45 of 2016)*

**LOEMA SARME.....1<sup>ST</sup> APPLICANT**  
**DANIEL LOHAY.....2<sup>ND</sup> APPLICANT**  
**EZEKIEL DANIEL LOHAY.....3<sup>RD</sup> APPLICANT**  
**DESDERI DANIEL LOHAY.....4<sup>TH</sup> APPLICANT**  
**ISRAEL DANIEL LOHAY.....5<sup>TH</sup> APPLICANT**

**VERSUS**

**DESDERI HHADO SUMAWE.....RESPONDENT**

**RULING**

04/11/2020 & 04/11/2020

**MZUNA, J;**

This is an application for extension of time to file appeal out of time. The application has been preferred under Section 41(2) of the Land Disputes Courts Act Cap 216 R.E. 2019 as amended by Section 40 of Act No. 4/2016.

The Application is supported by a joint affidavit of the applicants and opposed by the Counter affidavit sworn by the respondent.

According to the reasons stated in the affidavit and well supported by Loema Sarme for other applicants, they failed to file the appeal within time because they were supplied with copy of the judgment and decree late.

That the judgment was delivered on 30/11/2018 but the said documents were availed to them on 08/01/2019 because the Hon. Chairperson was on leave.

Further that they wrote a letter requesting for same, a letter of 11/12/2018. They therefore requested for leave for the interest of justice.

In reply, the respondent asked for the Court to adopt the filed counter affidavit. Reading the filed counter affidavit the said respondent just said;-

*"3. That the contents of paragraph 1, 2,3,4, 5,6, 7,8, 9 and 10 of the applicants' joint affidavit are noted".*

Impliedly he did not object the reasons in the affidavit, otherwise ought to have stated so.

The main reason for granting extension of time to file appeal out of time is that the applicants must demonstrate sufficient reasons for the delay or show "good cause".

The question is whether the applicants have demonstrated good cause for the delay.

The applicants have said were served with copy of the judgment and decree on 08/01/2019. This application was filed on 13/02/2019 after almost one month. Nothing has been said or accounted for such period of delay.

During hearing, the 1<sup>st</sup> applicant has said was not accorded a chance of hearing which is a ground of illegality.

It was held in the case of **Citibank (Tanzania) Ltd Vs T.T.C.L & Others**, Civil Application No. 97 of 2003 CAT (unreported) That

*"....A claim of illegality or otherwise of the challenged decision or order or in the proceedings leading to the decision".*

Based on the ground of illegality, I find that there is sufficient cause shown to grant extension of time.

Excersing the discretionary powers of this Court, I grant 21 days within which to file the said appeal.

Application is granted with no orders as to costs.



**M.G. MZUNA**

**JUDGE**

**04/11/2020**

**Court:** Ruling delivered this 4<sup>th</sup> day of November, 2020 in the presence of both parties.



**M.G. MZUNA**

**JUDGE**

**04/11/2020**