

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

**MISC. LAND APPLICATION NO. 23 OF 2020**

*(Arising from land revision No. 30/2015; Originating from Katoma Ward Tribunal  
in case No. 04 of 2013)*

**LAURENT BENEDICT.....APPLICANT**

***VERSUS***

**ALISTIDIA BENEDICTO.....1<sup>ST</sup> RESPONDENT**  
**REDEMTA BENEDICTO.....2<sup>ND</sup> RESPONDENT**  
**JOHARITHA BENEDICTO.....3<sup>RD</sup> RESPONDENT**

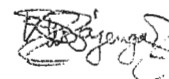
**RULING**

*Date of last order 25/11/2020*

*Date of Ruling 04/12/2020*

***Kilekamajenga, J.***

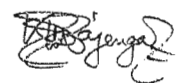
The applicant approached this Honourable Court seeking an order for extension of time to allow him to file an appeal to this Court. The application is made by way of chamber summons supported by an affidavit deposed by the applicant. The same application is made under **section 79, 68 (e), 95 and Order XLIII (2) of the Civil Procedure Code, Cap. 33 RE 2019, Section 38(1), 41 of the Land Disputes Court Act, Cap. 216 RE 2019 and Section 14 of the Law of Limitation Act, Cap. 89 RE 2019**, together with any other enabling provisions of the law. On the other hand, the respondents filed a counter affidavit through their advocate, Mr. Lameck John Erasto. When the parties were



invited to argue the application, the applicant appeared under the legal services of the learned advocate, Mr. Remidius G. Mbekomize whereas the respondents were represented by the learned advocate, Mr. Lameck John Erasto.

In the oral submission, the counsel for the applicant informed the Court that, after the decision of the District Land and Housing Tribunal, the applicant was aggrieved. He appealed to this Court vide Land Case Appeal No. 30 of 2017 though he appealed out of time. The appeal was dismissed in December 2019 for being made out time. The applicant lodged the instant application on 15<sup>th</sup> April 2020. The applicant delayed to appeal because he did not get the copy of judgment and decree in time. From the time when the initial appeal was dismissed to the time of filing the instant application, the applicant also delayed because he failed to get legal assistance.

Mr. Mbekomize further submitted that the decision of the Ward Tribunal has illegalities. For instance, the respondents claimed for ownership of the deceased's estates while none of them is the administrator of the estates of the deceased. Therefore, the respondents have no *locus standi* to sue and this is only one of the illegalities in the decision of the Ward Tribunal. He finally urged the Court to allow the application.



In response, Mr. Erasto submitted that the applicant's initial appeal was dismissed on 11 December 2019 therefore the applicant cannot apply for extension of time, but he may appeal against the dismissal order to the Court of Appeal of Tanzania. To cement his argument, he referred the Court to the case of **Tanzania Breweries LTD v. Edson Muganyizi Barongo and 7 Others, Misc. Labour Application No. 79 of 2014**. Mr. Erasto insisted that the applicant was not supposed to file this application. Again, the application is brought under the wrong provisions of the law. These provisions of the law were not supposed to be applied because there is no lacuna to warrant the applicant to apply other provisions of the law.

The counsel for the respondents further alleged that the applicant was negligent in handling this matter. The decision of Katoma Ward Tribunal was delivered on 08/01/2014, the applicant did not appeal in time. Instead, he filed revision application on 31/08/2015 which was later objected and finally struck out. Later, the applicant filed the appeal No. 30 of 2017 which was brought out of time. The counsel insisted that the applicant has been so negligent in processing the appeal. To fortify the argument, he referred the Court to the case of **Tanzania Harbours Authority v. Mohamed R. Mohamed [2003] TLR 76**.

Mr. Erasto further submitted that the allegation that the applicant was not supplied with the ruling of the District Land and Housing Tribunal is not proved.

