

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(LAND DIVISION)

TANGA DISTRICT REGISTRY

AT TANGA

MISCELLANEOUS LAND CASE APPLICATION NO.100 OF 2018

(Arising from the District Land and Housing Tribunal for
Tanga at Tanga Misc. Application No. 38 of 2018)

MWANAMVUA MKOBAAPPLICANT

VERSUS

HASSANI MWARUMA.....RESPONDENT

RULING

MRUMA.J.

This is an application for extension of time within which the Applicant Mwanamvua Mkoba, can file an appeal out of time against the decision of the district land and Housing Tribunal for Tanga District in Land application No. 38 of 2018.

The Applicant in this application was the Applicant in this application was the Applicant in Land Application No. 38 of 2018 before the District Land and Housing Tribunal for Tanga District.

Judgment of the district tribunal was delivered on 3rd October 2018 in favour of the Respondent Hassan Mwaruma. This application was presented for filing on 13/12/2018 which is 71 days.

Under the provisions of section 41 (2) of the Land Disputes Courts Act (No.2), No.2 of 2016, an Appeal Under sub-section (1) may be lodged within forty five (45) days after the date of the decision or order.

The Applicant asserts under paragraph 4 of her supporting affidavit that she fell sick and was taken to hospital for examination and treatment as a result of which she delayed in filing an appeal within the prescribed time.

Efforts to serve the Respondent by ordinary service proved futile as a result of which an order to serve him by substituted service by publication was issued. Service was duly affected by publication in Mwananchi Newspaper of 24th February 2020. The Respondent did not enter appearance and the matter proceeded ex- parte against him.

Under the proviso to section 41 (2) of the land disputes courts act as amended by the written Laws (Miscellaneous Amendment Act, No. 2 of 2016), the High Court may for good cause, extend the time for filing an appeal. In the case at hand the Applicant asserts that she was ill.

In the case at hand, the Applicant has asserted in paragraph 4 of his affidavit that she got sick and was taken to hospital before filing her appeal she attached therein some medical prescription purportedly from the hospital which attended her. However, neither the names of the Hospital nor that of medical doctor who attended her was disclosed in that chit.

In his submission in support of the application, counsel for the Applicant simply stated that; "From there she got sick and was taken ^{to} of hospital for treatment, as a result she delayed to appeal within the time provided by the law". What is the name of that hospital? Is left to the court to find out.

Thus, while I have no doubt that illness is a good causes, but it must be proved or substantiated by evidence. That has not been done in this case.

In the circumstance I dismiss this application for lack of proof of sickness on the part of the Applicant. As the matter proceeded ex-parte, I will not make any order as to costs.


A.R. MRUMA

JUDGE

3/09/2020

Date: 03/09/2020

Coram: A.R. Mruma,J.

Applicant: Mr. Chanjarika for the Applicant (who is bereaved)

Respondent: Absent

Court Clerk: Nakijwa

COURT

Ruling delivered.



A handwritten signature in blue ink, appearing to read "A.R. Mruma".

A.R. Mruma

Judge

Dated at TANGA this 3rd Day of September, 2020