

**IN THE HIGH COURT OF TANZANIA  
(DODOMA DISTRICT REGISTRY)  
AT DODOMA**

**LAND CASE APPEAL NO 35 OF 2018**

*(Arising from the decision of the District Land and Housing Tribunal for DODOMA in  
Misc. Land Application No. 317 of 2017)*

STANLEY MASAKA ..... APPELLANT

VERSUS

MOSHI MASUMA ..... 1<sup>ST</sup> RESPONDENT

RUZWILO MAJEBELE ..... 2<sup>ND</sup> RESPONDENT

**JUDGEMENT**

*20<sup>th</sup> August, 2020 & 9<sup>th</sup> February, 2021*

**SIYANI, J:**

Stanley Masaka, the appellant herein filed an application (Misc. Land Application No. 317 of 2017) before the District Land and Housing Tribunal for Dodoma, for extension of time to file Bill of Costs. The Application was made under Section 14 (1) of the Law of Limitation Act, Cap 89 RE 2002. The Tribunal denied him the extension as it found no sufficient reasons to grant the same. Aggrieved by the said decision, the appellant has preferred the instant appeal raising two grounds as follows:

- 1. There were genuine grounds for delaying filing the Bill of Costs.*
- 2. The Trial Tribunal failed to examine the merits of the application.*

By the leave of the Court, the appeal was argued by written submissions. While the appellant enjoyed the services of Advocate Sosthenes Mselingwa, the respondents were represented by Advocate Godwin Beatus Ngongi.

Through his submissions, counsel Mselingwa argued that that he delayed filing the Bill of Costs because the respondents were resisting execution of the decree. That the respondents were unwilling to vacate the land in execution of the decree, and this prompted the Appellant to seek for the Tribunal's assistance. The Appellant then filed Misc. Application No. 131 of 2017, and the Tribunal appointed Muvina General Supplies Limited to affect the eviction of the respondents from the suit premises, thus the delay was not due to negligence or inaction on the part of the appellant, but it was accassioned by the respondents.

Application No. 589 of 2018 and **Tanzania Rent a Car Vs Peter Kimuhu**, Civil Application No. 226/01 of 2017 which were referred to me by the Counsel for the respondents, observed among others that there must be sufficient reasons for a court or tribunal to exercise its discretionary powers for enlargement of time beyond the period prescribed by law.

In the instant matter, the appellant waited for execution proceedings to be finalised before lodging his Bill of Costs. In my view that was an ignorance of the law because as correctly argued the respondent's counsel, the two processes could run parallel. As it was for trial tribunal, there was no need for the appellant to wait for the completion of execution processes to lodge his Bill of Costs. Underlining the need to have some material before the court extend time, the Privy Council observed the following in the case of **Ratnam Vs Cumarasamy** (1964) 3 ALL ER 933.

*The rules of court must, prima facie, be obeyed, and, in order to justify a court in extending the time during which some step-in procedure requires to be taken, there must be some*

*material on which the court can exercise its discretion. If the law were otherwise, a party in breach would have an unqualified right to an extension of time which would defeat the purpose of the rules which is to provide a time-table for the conduct of litigation.*

For the reasons stated above, the District Land and Housing Tribunal's decision in Misc. Land Application No. 317 of 2017 cannot be faulted. As the appellant failed to provide sufficient reasons to enable the tribunal exercise its powers for enlargement of time to file Bill of Costs, the instant appeal fails and consequently the same is hereby dismissed, with costs.

**DATED at DODOMA this 9<sup>th</sup> February, 2021**



**M.M. SIYANI**  
**JUDGE**