

**IN THE HIGH COURT OF TANZANIA  
IN THE DISTRICT REGISTRY  
AT MWANZA  
MISC. CIVIL APPLICATION NO. 134 OF 2020**

**ROBERT MAZIBA SENGEREMA ..... APPLICANT  
VERSUS  
HON. EDWARD MASAO, CHAIRMAN DISTRICT  
LAND AND HOUSING TRIBUNAL-MWANZA ..... RESPONDENT**

**EXPARTE RULING**

8<sup>th</sup> & 26<sup>th</sup> February, 2021

**RUMANYIKA, J.:**

The application is for extension of time within which, with respect to refusal of Edward Masao, Chair of Mwanza District Land and Housing Tribunal (the respondent) to issue one copies of proceedings, judgment and decree in Land Application No. 123 of 2008 Robert Maziba Sengerema (the applicant). It is brought under Section 14(1) of the Law of Limitation Act Cap 89 R.E. 2019 for him to apply for order of **mandamus**. It is supported by affidavit of Robert Maziba Sengerema whose contents the applicant adopted during the hearing on 09/02/2021. However, as there was proof of service on the respondent, but for reasons known to him he

did not appear, appearance of the respondent it was on that ground dispensed with hence the exparte ruling.

Mr. Masoud Mwanaupanga learned counsel appeared for the applicant and, in a nutshell he submitted that with respect to Land Application No. 123/2008 of the DLHT, one having had the impugned judgment and decree delivered on 11/11/2016 and 4 days later i.e. 15/11/2016 he applied for the copies but nothing came out, he sent 2<sup>nd</sup> and 3<sup>rd</sup> reminders on 09/03/2017 and 24/07/2018 respectively all in vain leave alone his complaints to the tribunal's chair in charge and also to the Minister's Principal secretary.

Questioned by the court for more clarity, the learned counsel stated that there was, in this application no need to join the Attorney General because the respondent was just in his personal capacity sued.

Here the issues are; **(1)** whether the application is tenable and **(2)** whether the applicant has assigned sufficient grounds for extension of time.

Being aggrieved by the judgment and decree, the applicant may have had intended to appeal but for the missing copies/records yes, but the



records may have been destroyed or misplaced such that they could not be traced any further who knows in which case it was now settled law that it was until the court had declared the records as such, presumption had been that no court records shall be so casually deemed but as said, upon the responsible/competent registry officer so declaring it, and, whether requested or on its own motion end of the court day the court will order reconstruction of the records.

It is very unfortunate that in the present case the applicant did not accordingly the newly invented position of the law there is no wonder at no point in time was the Deputy Registrar of this court howsoever engaged (See the case of **Robert Madololyo V.R**, Crim.Appeal No. 486 of 2015 (CA) unreported. In other words, the application was prematurely and without justification lodged. Suffices the point to dispose of the application leave alone exclusion of the Personal Secretary and the Attorney General as proper parties much as the respondent wasn't actually brought to court as individual.

Without prejudice to the foregoing discussion, the application lacks merits for one main reason. The applicant may have all these years been busy in the DLHT's corridors looking for administrative amnesty until when

he was fed up and gave in on 24/02/2020 yes, but he did not give account of each day of the delay until on 03/11/2020 when, according to records he lodged the instant application.

The devoid of merit application is dismissed. Each party shall bear their costs. It is so ordered.

Right of appeal explained.

  
**S. M. RUMANYIKA**

**JUDGE**

**09/02/2021**

The ruling is delivered under my hand and seal of the court in chambers this 26/02/2021 in the absence of the parties.



  
**S. M. RUMANYIKA**

**JUDGE**

**26/02/2020**