

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE DISTRICT REGISTRY OF SHINYANGA**

**AT SHINYANGA**

**MISC LAND APPLICATION NO 39 OF 2020**

***(Arising from Land Application No. 125 of 2017 before Kahama Land and  
Housing tribunal)***

**MWAJUMA MUSSA .....APPLICANT**

**(As administrator of the Estate of the late YOLUNEGE BUDONHO)**

**VERSUS**

**MASHIMBA MAYUNGA.....1<sup>ST</sup> RESPONDENT**

**MUSSA MAZIKU.....2<sup>ND</sup> RESPONDENT**

**RULING**

**MKWIZU, J.**

The applicant named above has filed an application before this court under the provisions of **section 41 (2) of the Courts (Land Disputes Settlements) Act Cap 216 R.E 2019** for the orders *inter alia* that;

*"1. That, this Honourable court be pleased to extend time limited for filling an appeal from the judgement and order delivered by District Land and Housing tribunal of Kahama on 30<sup>th</sup> day of January, 2018"*

The application is supported by applicant's affidavit sworn on 10th July, 2020.

When the application came for hearing on 17/2/2021 both parties appeared in person, unrepresented. Supporting her application, the applicant submitted that she is dissatisfied with the decision of District Land and Housing Tribunal in Land application No 125 of 2017 and that instead of appealing, she first instituted an application for revision which was struck on 9<sup>th</sup> July 2020 hence the present application. She in such prays to have the application allowed so as she could file her appeal to this court.

1<sup>st</sup> respondent's rely submissions were short. He essentially opposed the application on the ground that no genuine reasons advanced for the court to allow the prayer. On the other hand, 2<sup>nd</sup> respondent supported the application.

It is an established principle of the law that, for the Court to grant an application for extension of time applicant must account for the delay, showing good and sufficient cause for the delay this includes accounting for the length and reason(s) for the delay plus the degree of prejudice to the respondents if time is extended.

In this case, the court is informed that the decision sought to be impugned was delivered on 30/1/2018. Thereafter, applicant wrongly filed revision No 3 of 2018 before this court which was truck out by Mkeha J on 9<sup>th</sup> July 2020 followed by the filing of the resent application on 22<sup>nd</sup> July, 2020.

Having examined the records, the applicant's affidavit and the parties submissions, a technical delay is what the applicant is bringing forward as a reason in support of her application. This is so because she delayed while in court pursuing her rights in a Revision application. This, in **Fortunatus Masha V William Shija and Another**, (1997) TLR. 154 has been pronounced as a good ground for extending time where the court said:

*"I am satisfied that a distinction should be made between cases involving real or actual delays and those like the present one which only involve what can be called technical delays in the sense that the original appeal was lodged in time but the present situation arose only because the original appeal for one reason or another has been found to be incompetent and a fresh appeal has to be instituted. In the circumstances, the negligence if any really refers to the filing of an incompetent appeal not the delay*

*in filing it. The filing of an incompetent appeal having been duly penalized by striking it out, the same cannot be used yet again to determine the timeousness of applying for filing the fresh appeal."*

Given the position above, this court is of the view that, the applicant has accounted well for the delay. The application is therefore, hereby granted. The applicant is to file the intended appeal within thirty (30) days from the date of this ruling.

It is so ordered.

**DATED at SHINYANGA this 17<sup>th</sup> day of February, 2021.**

  
**E.Y. MKWIZU**  
**JUDGE**  
**17/2/2021**

