

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(IN THE DISTRICT REGISTRY OF KIGOMA)**

**AT KIGOMA**

**(LAND DIVISION)**

**APPELLATE JURISDICTION**

**MISC. LAND APPLICATION NO. 4 OF 2021**

(Arising from Land Appeal No. 38/2017 of the District Land and Housing Tribunal – Kigoma,  
Original Land Case No. 15 of 2016 from Nyaumbigwa Ward Tribunal)

**NESTORY DANGWA..... 1<sup>ST</sup> APPLICANT**

**JONAS HULILO .....2<sup>ND</sup> APPLICANT**

**VERSUS**

**DEBORA HAMIS JACKSON** [as administratrix of the estate of

**HAMIS BHUGUB] .....1<sup>ST</sup> RESPONDENT**

**SAMSON MAGULU .....2<sup>ND</sup> RESPONDENT**

**R U L I N G**

3<sup>rd</sup> & 10<sup>th</sup> March, 2021

**I.C. MUGETA, J.**

This an application for extension of time of appeal against the decision of the District Land and Housing Tribunal that was delivered on 15/11/2020. According to the affidavit, on 20/11/2020, the applicant applied for necessary documents for appeal purpose which were supplied on 15/12 2020. On 6/1/2021 the appeal was filed at the District Land and Housing



Tribunal and 8/1/2021 the appeal documents were returned for being filed out of time which necessitated this application.

Joyce Godfrey for the applicant believes the appeal was returned without a good cause because if the days for waiting for copied of judgment and proceedings are excluded, the sixty days within which to file an appeal had not expired.

Abdulkheri Ahmad for the first respondent opposed the application for a reason that each day of the delay has not been accounted for. However, this argument is valid if it is not true that the appeal was returned because the unaccounted for days are the period from 8/1/2021 to the time of filing this application which is 3/2/2021. Unfortunately, besides the averment in the affidavit that the appeal was returned, no evidence of such a return has been presented. A return of documents by courts goes with endorsement of the reasons for the return on the documents as evidence of return which has not been presented. However, since the averment in the affidavit has been made by the counsel himself, I have no reason to disbelieve her considering her duty to the court. Therefore, I shall take it as a matter of fact that the petition of appeal was, indeed returned. As submitted by counsel for the applicant, if the days for waiting for the record are excluded, the appeal was

filed on the fifty seven day from the date of the judgment. Section 38 (1) of the Land Disputes Courts Act [Cap. 216 R.E. 2019] provides that the period of appeal to the High Court for appeals originating in Ward Tribunal is sixty days. Therefore, it was submitted on time and it was returned by error.

On the foregoing, I allow the application. The intended appeal to be filed within fifteen (15) days from the date of this order. No order as to the costs.



A handwritten signature in blue ink, appearing to read 'Mugeta', is written above the printed name.

**I.C. Mugeta**

**Judge**

**10/3/2021**

**Court:** Ruling delivered in chambers in the absent of the applicants, represented by their advocate Miss Joyce Godfrey and in the presence of 1<sup>st</sup> respondent and in the absent of 2<sup>nd</sup> respondent.

**Sgd: I.C. Mugeta**

**Judge**

**10/3/2021**