



**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE DISTRICT REGISTRY OF BUKOBA  
AT BUKOBA**

**MISC. LAND APPLICATION NO. 88 OF 2019**

*(Arising from Bwanjai Ward Tribunal in Civil Case No. 40 of 2008; originating from the District Land and Housing Tribunal in Appeal No. 84 of 2009)*

**ADEODATUS ANDREW HAMIS.....APPLICANT**  
**VERSUS**  
**FOCUS RWE GASIRA.....RESPONDENT**

**RULING**

*Date of last order 02/03/2021*

*Date of judgment 12/03/2021*

***Kilekamajenga, J.***

The applicant approached this Honourable Court seeking an order for extension of time to file an appeal. The application was made under **Section 38 (1) of the Land Disputes Courts Act, Cap. 216 RE 2002** and **Section 14 (1) of the Law of Limitation Act, Cap. 89 RE 2002.**

The application is accompanied by an affidavit deposed by the counsel for the applicant, Mr. Alli Chamani. On the other hand, the respondent filed a counter affidavit resisting the application. When the application was scheduled for hearing, the applicant appeared in person and enjoyed the legal services of the learned advocate, Mr. Fahad Rwamayanga. The

respondent was present and was represented by the learned advocate, Mr. Lameck John Erasto.

The counsel for the applicant submitted that the applicant delayed to get the copy of decree and judgment in time hence he delayed to appeal. He submitted further that decision of the District Land and Housing Tribunal was delivered on 20<sup>th</sup> April, 2017. The applicant applied for the copies of judgment and decree on 27<sup>th</sup> April 2017 and received them on 16<sup>th</sup> June, 2017. Also he argued that, the decision of the District land and Housing Tribunal was tainted with illegalities because the opinions of assessors were not considered. He finally urged the Court to allow the application.

In response, the counsel for the respondent objected the reasons advanced by the counsel for the applicant. He informed the Court that the applicant failed to attach the letters to show that he applied for the copy of judgment. It is true that the tribunal's decision was delivered on 20<sup>th</sup> April 2017 and the copy of judgment was certified ready for collection. But the applicant brought the instant application on 18<sup>th</sup> November, 2019. There was laxity on the part of the applicant to follow-up the case. Mr. Erato invited the Court to consider the cases of **Kigoma Ally Malima v. Abbas**



**Yusuph Mwingamno, Civil Application No. 05 of 1987 (unreported); National Bank of Commerce v. Sadudin Meghi [1998] TLR 503.** The applicant ought to advance sufficient cause otherwise it amounts to negligence as it was decided in the case of **Zuberi Nassor Molid v. Mkurugenzi Mkuu Shirika la Bandari Zanzibar, Civil Application No. 93/15 of 2018, CAT at Zanzibar** (unreported).

The counsel for the respondent resisted the allegation that there was illegality occasioned by the District Land and Housing tribunal. The tribunal heard the appeal with assessors and recorded their opinions therefore there was no any illegality to warrant this Court to extend time. He prayed for the Court to dismiss the application.

When rejoining, the counsel for the applicant informed the Court that the instant application was filed after the initial application was struck out with leave to re-file. The initial application was filed on 18<sup>th</sup> July 2017. He finally reiterated the prayer to allow the application.

It is apposite at this stage to consider the merit in this application. It is an established principle of the law that in an application for extension of time,

the applicant must advance sufficient cause or good reason for the delay. Extension of time is the discretion of the Court which must be exercised judiciously after the applicant has advanced sufficient cause for the delay. In the case of **Tanga Cement Co. v. Jumanne Masangwa and Another, Civil Appeal No. 6 of 2001** (unreported) stated that:

*This unfettered discretion of the court, however, has to be exercised judicially, and the overriding consideration is that there must be 'sufficient cause' for doing so. What amounts to sufficient cause has not been defined. From decided cases a number of factors has been taken into account, including whether or not the application was brought promptly: the absence of any valid explanation for the delay: lack of **diligence** on the part of the applicant'.*

In the instant application, it is evident that the decision of the District Land and Housing Tribunal was delivered on 20<sup>th</sup> April, 2017. However, there is no evidence proving that the applicant applied for the copy of judgment on 27<sup>th</sup> April, 2017 as alleged by the counsel for the applicant. On 18<sup>th</sup> July, 2017 the applicant lodged an application for extension of time vide Misc. Land Application No. 47 of 2017. This was after the expiry of three months. On 13<sup>th</sup> November, 2019 the counsel for the applicant withdrew the

application with leave to re-file and he filed the instant application on 18<sup>th</sup> November 2019 i.e. after five days.

On the other hand, there is evidence in the file suggesting that when the decision of the District Land and Housing Tribunal was delivered on 20<sup>th</sup> April, 2017 the copy of judgment was certified on 18<sup>th</sup> May, 2017. That means, the copy of judgment was ready for collection within one month but the applicant was not diligent in collecting the same. Instead, the applicant lodged the application for extension of time after almost 90 days. For that reason therefore, the applicant delayed for almost 60 days which have not been accounted for. In my view, I find this delay inordinate and the applicant has failed to account for those days.

Furthermore, I have perused the Court file and did not find the illegality alleged by the applicant because the assessors were invited to give their opinions which were also considered by the tribunal chairman. I therefore find this ground has no merit. In conclusion, I find the applicant has failed to advance sufficient reasons to warrant extension of time. I hereby dismiss the application with costs. Order accordingly.

**DATED** at **BUKOB**A this 12<sup>th</sup> Day of March, 2021.



  
**Ntemi N. Kilekamajenga.**  
**JUDGE**  
**12/03/2021**

**Court:**

Ruling delivered in the presence of the counsel for the appellant, Mr. Fahad Rwamayanga and the counsel for the respondent, Mr. Erieth Barnabas. The appellant and respondent present.

  
**Ntemi N. Kilekamajenga.**  
**JUDGE**  
**12/03/2021**



