

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(IN THE DISTRICT REGISTRY OF KIGOMA)**

**AT KIGOMA**

**(APPELLATE JURISDICTION)**

**MISC LAND APPLICATION NO. 07 OF 2021**

(Arising from Land Application No. 35 of 2016 of District Land and Housing Tribunal for Kigoma Dated 28/09/2016 Before Waziri M.H. Chairman)

**WILBROAD PHILBERT TAMBA** (Administrator of the  
Estate of the late **PHILBERT S/O TAMBA**).....**APPLICANT**

**VERSUS**

**HAMIS S/O CHUBWA**.....**1<sup>st</sup> RESPONDENT**

**BUKURU S/O NYAMUBHI** .....**2<sup>nd</sup> RESPONDENT**

**R U L I N G**

13<sup>th</sup> & 13<sup>th</sup> April, 2021

**A. MATUMA, J.**

When this application came for hearing the applicant was present in person and had the service of Mr. Joseph Mathias learned Advocate.

The 1<sup>st</sup> respondent was absent but his learned Advocate Mr. Eliuta Kiviyiro had filed a notice of absence. The 2<sup>nd</sup> respondent is reported dead by endorsement of the Ward Executive Officer. There is however no sufficient proof to that effect. When I asked Mr. Joseph Mathias as to whether he effected service to the parties as I have not seen any counter affidavit, he submitted that he served the 1<sup>st</sup> respondent through his advocate since 16/03/2021 but service to the 2<sup>nd</sup> respondent was



ineffective by the afore named reason. He further submitted he was personally served with the counter affidavit yesterday. I directed the court clerk to make follow up in the registry where the counter affidavit by the 1<sup>st</sup> respondent was found filed yesterday 12/04/2021.

In the circumstances, the 1<sup>st</sup> respondent filed the counter affidavit unreasonably yesterday at the time I could not get it for my preparation for hearing. It is as a calculated move for adjournment even prior to the reasons for his absence. This being an application for extension of time, I can see no reason to prolong it for adjournments. I thus take the affidavit of the applicant as being unopposed. I grant the same. The applicant is granted twenty-one (21) days within which to lodge the intended appeal. I however make it clear that when the appeal shall be lodged not only the 1<sup>st</sup> respondent but also the 2<sup>nd</sup> respondent must be effectively served and if truly she is dead, then necessary legal steps should be taken by the applicant to have her properly heard through a recognized representative. No orders as to costs.

It is so ordered.

A handwritten signature in blue ink, consisting of a series of loops and a long, sweeping horizontal stroke that extends to the right.



**A. Matuma**

**Judge**

**13/04/2021**

**Court:** Ruling delivered in chambers in the presence of the applicant in person and his Advocate Mr. Joseph Mathias learned and in the absence of the Respondents.

**Sgd: A. Matuma**

**Judge**

**13/04/2021**