

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

AT MUSOMA

MISC. LAND APPLICATION NO. 85 OF 2020

RUGOLA MATETE APPELLANT

VERSUS

THOMAS MAREGESI RESPONDENT

**(Application for extension of time to file reference from the
decision of the District Land and Housing Tribunal for Mara
at Musoma in Misc. Land Application (Taxation)
No. 991 of 2019)**

RULING

23rd and 23rd April, 2021

KISANYA, J.:

This is an application for extension of time within which to lodge reference application. It has been made by way of Chamber Summons made under order 8(2) of the Advocates Remuneration Order, 2015 and supported by an affidavit sworn by the applicant on 6th November, 2020. The ruling subject to this application was delivered by the District Land and Housing Tribunal in Misc. Land Application No. 991 of 2019 on 7th October, 2020.

According to the affidavit in support of this application, the applicant failed to lodge the application for reference in time due to delay in obtaining the copy of ruling. He stated on oath that the copy of ruling was served to him on 2nd November, 2020.

When this matter came for hearing today, Mr. John Manyama, learned counsel appeared for the applicant. The respondent did not enter appearance without notice. Therefore, the hearing proceeded in his absence.

At the outset, Mr. Manyama prayed to adopt the affidavit in support of the applicant. He submitted that the copy of the ruling was vital for the applicant to advance the reasons for reference to this Court. Therefore, the learned counsel urged me to allow the application.

I have considered the application, affidavit and submissions by Mr. Manyama. In terms of order 7(2) of the Advocates Remuneration Order, 2015, the time within to institute application for reference against the decision of the taxing master is 21 days from the date of impugned decision. According to Order 8(1) of the Advocates Remuneration Order (supra), Court is vested with a power of extending the said time. The said provisions reproduced hereunder:

"The High Court may, subject to order 7 extend the time for filing a reference upon sufficient cause."

The Advocates Remuneration Order (supra) does not define the term sufficient cause. It is determined basing on the circumstances of each case. In any case, the applicant must prove that the reason for failure to file the application for reference in time was beyond his control. See for instance the case of **SHANTI v HINDOCHIE & OTHERS** (1973) EA. 207 where the term "sufficient reason" used rule 8 of the rules of the Court of Appeal for Eastern Africa was interpreted as follows:

"the more persuasive reason ... that he can show is that the delay has not been caused or contributed by dilatory conduct on his part. But that is not the only reason".

I have read the applicant's affidavit in support of the application. He deposed to have received the copy of ruling subject to reference four (4) days after lapse of the time to lodge the reference. Although it is not a legal requirement to append the copy of ruling to the application for reference, I am at one with Mr. Manyama that, the applicant was in a good position of composing the grounds for reference after reading the

said copy of ruling. It follows that the delay was caused by reasons beyond the applicant's control because the copy of judgment was supplied to him after lapse of the time to lodge reference.

For the above reason, I find that the application has disclosed a good cause for extension of time. I accordingly order the applicant to file the intended application within 21 days of this ruling. As for costs, I order that each party bears his/her own costs.

It is so ordered.

Dated at MUSOMA this 23rd day of April, 2021.




E. S. Kisanya
JUDGE
23/04/2021