

**IN THE HIGH COURT OF TANZANIA**

**IN THE DISTRICT REGISTRY**

**AT MWANZA**

**MISC LAND APPLICATION NO. 103 OF 2020**

(Originating from Land Application No. 12/2019 of the High Court of Tanzania at  
Mwanza)

**PASTORY J. BUNONGA ..... APPLICANT**

**VERSUS**

**ASTERIA TOFILY KILULYA ..... RESPONDENT**

**RULING**

09 & 22/04/2021

**RUMANYIKA, J.:**

The application is brought under Section 14 (1) of Law of Limitation Act and Section 11 (1) of the Appellate Jurisdiction Act Chapters 89 and 141 RE. 2019 for extension of time within which Pastory J. Bunonga (the applicant) with respect to decision of this court dated 25/1/2020 to lodge a notice of appeal to the Court of Appeal of Tanzania.

It is supported by affidavit of Pastory J. Bunonga whose contents essentially the applicant adopted during the hearing.

Like the applicant, Asteria Tofily Kilulya (the respondent) appeared in person.

When, by way of audio teleconferencing the matter was called on 09/04/2021 for hearing, the parties appeared online (mobile numbers 0763021499 and 0769297106) respectively unrepresented.

The applicant submitted that he fell sick on 10/2/2020 such that he could not have moved around as he experienced chest, arms and foot pains but having had engaged one Ng'wigulila advocate only when he recovered to find the latter reported dead. That is all.

Having had adopted contents of her counter affidavit, the respondent submitted that unless one told the court when exactly advocate Ng'wigulila passed on, the applicant only played delaying tactics. And if anything, the applicant compensates me for some exhaustive improvements effected since 2014. The respondent further contended.

The issue is whether the applicant has assigned sufficient grounds for extension of time. The answer is no for reasons as under; **(a)** as submitted, with effect from 10/2/2020 the applicant may have been indisposed yes, but contrary to the rules of pleadings, on that one the



supporting affidavit was silent **(b)** with the view to giving account of every single day of the delay the applicant did not tell, if at all he fell sick when exactly he recovered such that one could not have lodged a notice of appeal until say nine (9) good months later **(c )** it is common knowledge that during outbreak of the deadly corona pandemic not only in this jurisdiction courts were not locked down but also for similar matters parties were heard through digital plat form audio teleconferencing to be specific. The applicant staying home as per paragraph 4 of the supporting affidavit therefore was uncalled for **(d)** it would appear frankly speaking that the applicant would not have lodged the instant application on 21/10/2020 until 9/10/2020 (say 12 days later) but for the copy of the execution order issued by the District Land and Housing Tribunal Mwanza (the DLHT). It means therefore the application for extension of time it was but after thought. An afterthought necessary step constituted no sufficient ground for extension of time but, like the respondent bitterly complained the mere delaying tactics therefore abuse of the court process.

The devoid of merits application is dismissed with costs. The DLHT is directed to carry out the execution immediately. It is so ordered.

Right of appeal explained.

  
**S. M. RUMANYIKA**

**JUDGE**

**18/04/2021**

The ruling delivered under my hand and seal of the court in chambers this 22/4/2021 in the absence of the parties.



  
**S. M. RUMANYIKA**

**JUDGE**

**22/04/2021**