

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. 13 OF 2021

(Arising from Application No. 87/2020 of the District Land and Housing Tribunal – Kigoma)

ATHUMANI MBULUGHUTO BIGOTI APPLICANT
VERSUS
ILAGABHA MVUNDAGALE RESPONDENT

R U L I N G

1st June & 3rd June, 2021

I.C. MUGETA, J.

On 20/10/2020 the District Land and Housing Tribunal passed a decision which the applicant intends to appeal. Since he is out of time, he has made this application to have time to do so extended. According to paragraph 2 of the affidavit, the counsel for the appellant, Masendeka Dayanse, learned advocate, was engaged for appealing purposes on 3/11/2020. Two days later on 5/11/2020 he prepare a letter and on 6/11/2020 lodged it to the District Land and Housing Tribunal to be supplied with the necessary documents to enable him to process the appeal. It was until on 29/12/2020



when the ruling was supplied without a drawn order which was supplied on 10/3/2021 and on 25/3/2021, this application was filed. Mr. Dayanse argued before me that the delay was caused by the untimely supply of the requisite documents.

Edna Aloyce, learned advocate for the respondent, opposed the application. She is of the view that the applicant did not act diligently in pursuing his rights. According to her computation, this application was delayed for a total of 111 days and each day of the delay has not been accounted for. She, particularly, was concerned with the delay to apply for copies of the requisite document which was done after seventeen days. To her, negligence is proved by failure of the applicant to remind the trial tribunal to supply the documents expeditiously from when he applied for the documents and from when he got the ruling to when he got the drawn order.

In my view this application has merits. This case originates from the District Land and Housing Tribunal. The Land Disputes Courts Act [Cap. 216 R.E. 2019] and its Regulations are silent on the appeal period from the District Land and Housing Tribunal to the High Court. However, in terms of section 52 (2) of the Land Disputes Courts Act [Cap. 216 R.E. 2019] the provisions the Law of Limitation Act, [Cap. 89 R.E. 2019] applies to this- situation.

Under PART II paragraph 2 of this law the appeal period is forth five days. Therefore, requesting for the requisite document within seventeen days from the date of the decision is within the range and acceptable. It follows that the period within which to appeal stopped to run seventeen days later, on 6/11/2020, when the applicant requested for the documents until on 10/3/2021 when the applicant got all the documents. Therefrom, the time started to run again up to when this application was filed which forms a total of fifteen days. Therefore, in computing the limitation period we add the seventeen days which expired before documents were applied for and the fifteen days which expired from the date of supply of the drawn order to the filing of the application. This makes the total time spend by the appellant after excluding the time he waited for the documents to be thirty two days. This time is well within the prescribed appeal period. I would even say that since under section 19 (2) of the Law of Limitation Act exclusion of the period necessary for obtaining copies of the documents is automatic, there was no need for filing this application. However, as by now the forty five days have expired, I hereby grant the application. The intended appeal to be filed within fourteen days from the date of this order. I give no orders as to cost as the reasons leading to this application cannot be blamed on any party.



I.C. Mugeta

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Judge

3/6/2021

Court: Ruling delivered in chambers in the absence of the applicant represented by Mr. Masendeka Ndayanse, advocate and in the absence of the respondent represented by Miss Edna Aloyce, advocate.

Sgd: I.C. Mugeta

Judge

3/6/2021