

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

MISC. LAND APPLICATION No. 99 OF 2020

(Originating from Land Case Appeal No. 65/2020 HC and Muleba DLHT Application No. 71/2017)

ERASMUS BISHANGA.....APPLICANT

VERSUS

CHARLES CLEOPHACE.....RESPONDENT

RULING

02nd June & 02nd June 2021

Kilekamajenga, J.

The applicant moved this Court for extension of time by way of chamber summons supported with an affidavit deposed by the counsel for the applicant, Mr. Mathias Rweyemamu (Advocate). The application is coached under **section 93 and order XLIII, Rule 2 of the Civil Procedure Code, Cap. 33 RE 2019**. In response, the respondent filed the counter affidavit resisting the application. The matter was finally scheduled for hearing; the applicant was present and enjoyed the legal services of the learned advocate, Mr. Mathias Rweyemamu while the respondent appeared in person and without representation.

In advancing the reasons for the delay, the counsel for the applicant argued that he filed the initial appeal on time which was struck out. He filed an application for extension of time where his prayer was granted and he was given 7 days to

file the appeal. However, he did not file the appeal because he was appearing before the Honourable Court of Appeal of Tanzania. The order allowing the applicant to file the appeal was issued on 24/11/2020 but he filed the instant application on 24/12/2020. He therefore delayed for about 30 days.

In response the respondent objected the extension of time and there was no rejoinder thereafter.

I have considered by the counsel for the applicant on reasons for the delay. I am aware extension of time is the discretion of the Court which may be granted upon the applicant advancing sufficient reason for the delay. See, the case of **Yusufu Same and Hawa Dada v. Hadija Yusufu, Civil Appeal No. 1 of 2002**. In the instant application, the applicant was given 7 days to file the appeal but he never complied with the order of the Court. Instead , he delayed for other 30 days which have not been accounted for see, the case of **MPS Oil Tanzania Ltd, Amran Mohamed Talb and Asile Sleyum Mausud v. Citibank Tanzania Ltd, Civil Application No. 4 of 2016, CAT at Dar es Salaam (unreported)**. The major reason for delay as alleged by the counsel for the applicant is that he was attending to the Court of Appeal Sessions in Bukoba. I find this to be laxity and negligence on the part of the counsel because he could not have attended to the session until the Christmas eve. The delay

even of a single day must be accounted for. See, the case of **Sebastian Ndaula v. Grace Rwamafa, Civil Application No. 04 of 2014, CAT at Bukoba (unreported)**. On the other hand, laxity and negligence on the part of the counsel for the applicant is not a good cause for extension of time. In conclusion, I find the applicant failed to advance sufficient cause to warrant extension of time. I hereby dismiss the application with costs. Order accordingly.


Ntemi N. Kilekamajenga
JUDGE
02/06/2021


Court:

Ruling delivered this 02/06/2021 in the presence of the applicant, respondent and the counsel for the applicant, Mr. Mathias Rweyemamu (Advocate). Right of appeal explained to the parties. Right of appeal explained to the parties.


Ntemi N. Kilekamajenga
JUDGE
02/06/2021
