

**IN THE HIGH COURT OF TANZANIA**

**IN THE DISTRICT REGISTRY**

**AT MWANZA**

**MISC. LAND APPLICATION NO. 38 OF 2021**

(Arising from Land Appeal No. 54 of 2019 and Misc. Application No. 21/2018 of the  
DLHT Geita)

**RENATUS FRANCIS .....APPLICANT**

**VERSUS**

**MANENO JOSEPH (Administrator  
of the Estate of the late JOSEPH NYAMHANI**

} .....**RESPONDENT**

**RULING**

**17<sup>th</sup> May & 30<sup>th</sup> June, 2021**

**RUMANYIKA, J.:**

With respect to the court's judgment and decree dated 1/3/2021, the dual application for extension of time within which Renatus Francis (the applicant) to lodge a notice of appeal, and it appears to file an application for certificate of point of law it is brought under Sections 5 (1)(c ) and 11 (1) of the Appellate Jurisdiction Act Cap 141 RE. 2019 and rules 45 and 47 of the Court of Appeal Rules, 2009. It is supported by affidavit of Renatus Francis whose contents essentially, by way of audio teleconference hearing Mr. Steven Kaijage learned counsel for the applicant adopted on 28/6/2021. Mr. Kabugusi learned counsel appeared for Maneno Joseph (the

respondent) Administrator of the estate of the late Joseph Nyamhani. I therefore heard them through mobile numbers 0682804480 and 0769240613 respectively.

Ms. S. Kaijage learned counsel for the applicant submitted that as he was aggrieved by the decision but caught up since January, 2021 attending to a sick relative whom end of the day he lost on 27/3/2021 under a traditional healer care, he thereafter faced financial constraints such that he could not have ably procured an advocate, and, within time per sue the matter hence the delay. That is all.

Mr. Kabugusi learned counsel submitted; **(1)** that the application was devoid of merits because the alleged impugned decision was only one for denovo hearing **(2)** contrary to the long established principle of the law the applicant did not account for each day of the delay much as the applicant had never ever missed court sessions before if at all the said relative fell sick in January, 2021 **(3)** the applicant's relative may have had been away being attended by a traditional healer yes, but there wasn't on that one or at all the latter's affidavit **(4)** the applicant may have had encountered financial constraints and therefore could not have procured advocate and per sue the matter yes, but that one constituted no sufficient

ground for extension of time. Leave alone how close to applicant was the alleged deceased. That is all.

The central issue, and it is trite law is whether the applicant has assigned a sufficient ground. The answer is no. Reasons are; **(a)** the applicant may have had remained back attending to the sick relative until the latter died in the end of March, 2021 yes, but like Mr. Kabugusi learned counsel argued, contrary to the long established principle of law without one counting for each day of the delay the instant application was lodged on 19/4/2021 say twenty (20) good days later. I am mindful of the legal requirement that at all costs courts are enjoined to discourage endless litigation suffices the point to dispose of the application leave alone the applicant's failure, by way of some one's affidavit to established and prove the alleged traditional healer's story **(b)** the applicant may have had run short of cash to procure, engage advocate and, within time pursue the matter yes, but I think if such, the proof of which was depended on individuals' monopoly constituted good cause and sufficient grounds for extension of time, then majority of them would have pleaded it, and that one happening chances of there being endless litigation would have not been eliminated.

In the upshot, the devoid of merits application is dismissed with costs. It is so ordered.

Right of appeal explained.

  
**S. M. RUMANYIKA**  
**JUDGE**  
**29/06/2021**

The ruling delivered under my hand and seal of the court in chambers this 30/6/2021 in the absence of the parties.



  
**S. M. RUMANYIKA**  
**JUDGE**  
**30/06/2021**