

**IN THE HIGH COURT OF TANZANIA**  
**IN THE MWANZA DISTRICT REGISTRY**

**AT MWANZA**

**MISC. LAND APPLICATION NO. 16 OF 2021**

(Arising from Misc. Land Appeal No. 33/2020 Originating from Misc. Application Nos. 5 & 120  
of 2020)

**AMRI HASSAN.....APPELLANT**

**VERSUS**

**DOTTO RAMADHANI.....RESPONDENT**

**RULING**

**2<sup>nd</sup> & 30<sup>th</sup> June, 2021**

**RUMANYIKA, J**

With respect to judgment and decree of this court (Mgeyekwa, J) dated 11/12/2021, now brought under Sections 11(1) and 5 (c) of the Appellate Jurisdiction Act and Section 47(2) of the Land Disputes Courts Act Chapters 141 and 216 RE. 2019 respectively and Rule 45(a) of the Court of Appeal Rules, 2009, the dual application for extension of time within which Amri Hassani (the applicant) to apply for leave and leave to appeal to the Court of Appeal of Tanzania it is supported by affidavit of Amri Hassani, whose contents the applicant adopted on 2/06/2021 during audio conferencing. Like the applicant, Dotto Ramadhani (the

respondent) appeared in person. I heard them through mobile numbers 0753260660 and 0756146764 respectively.

The applicant submitted that in granting or not refusing him extension of time and leave, the court may wish to consider the fact that the DLHT's failure to visit the locus in quo it did prejudice him (the applicant) much as also, the tribunal evaluated the evidence but improperly. That is all.

On her side, the respondent submitted that the application lacked merits and it was liable to be dismissed much as the applicant was the one who sold her the disputed plot but regardless of the court order, the former continued trespassing and he developed it further. That is all.

The central issue is whether the applicant has assigned sufficient grounds for extension of time.

According to records, therefore an uncontroverted paragraphs 2, 3, 4, 5 and 6 of the supporting affidavit, one having had not been satisfied with the judgment and decree and he lodged a notice of appeal on 04/01/2021, then he applied in writing for certified copies of the judgment and decree leave alone the 1<sup>st</sup> remainder dated and received on

25/01/2021. That late in the day he was supplied with the copies on 26/01/2021 much as the applicant further contended that the point, by way of appeal for determined by the highest fountain of justice was whether now that the decree holder was done with the execution, the application for extension of time for restoration of Land Appeal No. 136/2017 and application for setting aside the respective dismissal order were over taken by events.

Upon requesting for the copies and several follow ups, the applicant may have had been supplied with the requisite copies late in the day on 26/01/2021 yes, then having accounted for each day of the delay he lodged the instant application hardly a day later ie on 27/01/2021, what a militancy suffices the ground for extension of time.

Now with regard to the 2<sup>nd</sup> limb of the application, the pivotal issue is whether there was a point of general importance by way of appeal worth to be determined by the Court of Appeal of Tanzania much as the applicant never disputed the fact that with respect to disputed land execution of the judgment and decree had been long ago carried out and the decree holder (now the respondent) therefore was done. It follows therefore that both the intended leave and appeal both were over taken by events. It is very

unfortunate that the application was preferred, lodged and heard (case of **Mafuru Magwega v. Meregesi Munena**, MZA Civil Application No. 6 of 2005 (CA) unreported.

The application is dismissed with costs. It is so ordered

  
**S. M. RUMANYIKA**

**JUDGE**

**03/06/2021**

The ruling is delivered under my hand and seal of the court in chambers  
this 30/06/2021



  
**S. M. RUMANYIKA**

**JUDGE**

**30/06/2021**