

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

MISC. LAND APPLICATION No. 16 OF 2019

(Arising from Application No. 14/2016 of the District Land and Housing Tribunal for Ngara at Ngara)

PEACE RUSHONGOAPPELLANT

VERSUS

RUTH YOSIA BULANGWAHERESPONDENT

RULING

19th & 19th July 2021

Kilekamajenga, J.

The applicant lodged the instant application seeking an order for extension of time to file an appeal. The application was under **section 41(2) of the Land Disputes Courts Act, Cap. 216 RE 2002 as amended by the written Laws (Misc. Amendment No. 2 Act of 2016)**. The application was made by way of chamber summons accompanied by an affidavit deposed by the applicant. When the parties appeared to defend the application, the applicant was present and represented by the learned advocate, Mr. Joseph Bitakwate whereas the respondent was absent but enjoyed the legal services of the learned advocate, Misc. Gisera Maruka.

In the oral submission, the counsel for the applicant submitted that the decision of the District Land and Housing Tribunal was delivered on 07/11/2018. The applicant applied for the copy of judgment on 12/11/2018. The copy of judgment

was certified and ready for collection on 15/02/2019. The applicant lodged the instant application on 08/03/2019. However, when the applicant received the copy of judgment, 45 days had already expired hence she lodged this application. The counsel invited the Court to consider the case of **Valerie MC Givern v. Salim Frakrudin Balal, Civil Appeal No. 386 of 2019, CAT at Tanga (unreported)** and finally urged the Court to allow the application because the applicant was delayed in getting the copy of judgment.

In response, the counsel for the respondent argued that the days of delay have not been accounted for because after receiving the copy of judgment, the applicant further delayed for 21 days. The copy of judgment was certified on 15/02/2019 and the instant application was lodged on 08/03/2019. She urged the Court to consider the case of **Sebastian Ndaula v. Grace Rwamafa, Civil Application No. 04 of 2014, CAT at Bukoba (unreported)** in which the Court insisted on the need to account for each days of delay.

Miss Gisera Rugemarila further argued that the above stance of the law has been applied in several cases including the case of **Paschal Kamuzora v. Mwesigwa Mbaizi and Deusdedith Bachumbila, Misc. land Case Application No. 40B of 2013**. The counsel was of the view that the applicant failed to take prompt steps to ensure that the application was filed on time. As a result, she delayed for other 21 days even after receiving the copy of judgment.

When rejoining, Mr. Bitakwate insisted that the copy of judgment was certified on 15/02/2019 and the instant application was filed on 08/03/2021. According to the case of **Valerie** (*supra*), the applicant was not supposed to account for each day of delay. He further argued that the cases submitted by the counsel for the respondent are distinguishable to this case.

In this application, I have carefully considered the parties' submissions. I however wish to reiterate the well established principle that, extension of time is the discretion of the Court which must be exercised judiciously after the applicant has demonstrated sufficient or good cause for the delay. The sufficient cause for extension of time is not well defined but always depends on the reasons advanced by the applicant and the nature of the case. In the instant application, the decision of the District land and Housing Tribunal was delivered on 07/11/2018. About five days later, the applicant applied for the copy of judgment which was certified and made for available for collection on 15/02/2019. There is no doubt, the applicant was so prompt in applying for the copy of judgment but the same was delayed for almost for months. I understand, there is a requirement for the applicant to account for each day of delay but in this case, the applicant has advanced a good cause for the delay because the copy of judgment was delayed and she could not lodge the appeal without attaching the copy of judgment. I hereby allow the application. The

applicant should lodge the appeal with 14 days from the date of this order. No order as to costs. It is so ordered.

Dated at Bukoba this 19th July 2021




Ntemi N. Kilekamajenga
JUDGE
19/07/2021

Court:

Ruling delivered this 19th July 2021 in the presence of the applicant and her counsel, Mr. Joseph Bitakwate and the counsel for the respondent, Miss Gisera Rugemalira (Advocate). Right of appeal allowed.




Ntemi N. Kilekamajenga
JUDGE
19/07/2021