

IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA

(IN THE DISTRICT REGISTRY OF BUKOBA)

AT BUKOBA

MISC. LAND APPLICATION NO. 08 OF 2021

*(Arising from the District Land and Housing Tribunal of Muleba at Muleba, in
Land Appeal No. 39 of 2020, Original Civil Case No. 29 of 2019-Muleba Ward
Tribunal)*

EVANCE ZEKIAAPPLICANT

VERSUS

PATRICIA THADEO.....RESPONDENT

Date of last Order: 20.07.2021

Date of Ruling: 20.07.2021

R U L I N G

MWENDA, J.

The Applicant have under Section 38(1) of the Land Disputes Courts Act, 2002(sic) preferred this Application seeking extension of time to lodge his Appeal to this Honorable Court. His Application is supported by an Affidavit and in opposing this application the respondent swore a counter affidavit.

When this matter was called for hearing, the Applicant and Respondent appeared in person without any Legal Representation.

During the hearing of this application, the applicant prayed this Court to consider and accommodate the contents of his Affidavit to form part of his submissions. In his submissions in chief, the applicant asserted to the effect that the main cause for his delay in lodging appeal in time is the accident he was engaged. He was then admitted at Kagondo Hospital and when he was discharged he spent sometimes home. When he later decided to make a follow up on his appeal he was informed that the time for filing the same have already expired. He was therefore advised to lodge an application for extension of time to lodge an appeal out of time. In conclusion the applicant prayed his application to be granted on the said reasons.

In reply to the applicant's submissions the respondent submitted that, the applicant has not stated as to when he got the said accident. She went further in asserting that, the applicant ought to have stated as to whether the said accident occurred before the time to lodge an appeal expired sometimes thereafter. She concluded by submitting that the applicant had ample time to file his appeal in time but did not exercise his right and as such he is now wasting the court's precious time.

In a brief re joinder the applicant submitted that he is not aware as to when he was involved in an accident as his aunt is the one who took him to Hospital.

My perusal to applicant's Affidavit and his submissions, it is clear that there are two reasons for delay. One is that despite applying for a copy decree in time i.e. on 13/01/2021 the same was not supplied to him until when he was already time barred and secondly is the accident he was engaged and his admission at Kagondo Hospital.

In this application the issue is whether there are sufficient reasons for extension of time.

Going by these reasons this court is of the view that more information is wanting to warrant extension of time. On the issue of delay in supply of a copy of Decree the applicant stated in paragraphs 6 and 7 of his Affidavit that despite his efforts to apply for it soon after the pronouncement of the judgment, the same was not supplied to him timely. He however did not state as to when was the said Decree supplied to him. On the issue of the accident the applicant failed to produce any proof to show that he was engaged in an accident and sustained injuries which led him to be admitted at kagondo Hospital. On top of that the applicant ought to have accounted for each and every day of delay from the date of receipt of the Tribunal's records to the filing date of this application. From the foregoing

reasoning it is evident that the applicant failed to account for each and every day of delay.

However, going through Paragraph 8 of the applicant's Affidavit, he is alleging illegality on the judgments of the trial Tribunals. This Court went through the applicant's intended memorandum of appeal and noted the applicant alleging that the Muleba Ward Tribunal acted with no jurisdiction in entertaining Civil Case No.29/2019.

In the case of ***Attorney General Vs. Tanzania Ports Authority and Another, Civil Application No. 87 of 2016*** it was held as follows :-

*"Moreover, it is settled law that **a claim of illegality of the challenged decision constituted sufficient reason for extension of time** regardless of whether or not a reasonable explanation has been given by the Applicant under the rule to account for delay." [Emphasis added]*


From the foregoing reasons, although the applicant failed to account for each and every day of delay, illegalities advanced are sufficient reasons to grant extension of time.

That being the case therefore this application is granted to enable the said illegalities be determined by this court.

The Applicant is thus required to file his Appeal within 14 days from the date of receipts of this Court's records.

Each party shall bear their own costs.

It is so ordered.


A. Y. MWENDA
JUDGE
20.07.2021

This ruling delivered in chamber under the seal of this Court in the presence of the Applicant Evance Zekia and in the Presence of the Respondent Patricia Thadeo.


A. Y. MWENDA
JUDGE
20.07.2021