

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(IN THE DISTRICT REGISTRY OF KIGOMA)**

**AT KIGOMA**

**LAND DIVISION**

**(APPELLATE JURISDICTION)**

**MISC. LAND APPEAL NO. 35 OF 2021**

(Arising from Misc. Land Application No. 138 of 2019 Before F. Chinuku, Original  
Land Case No. 6 of 2017 Kibirizi Ward Tribunal)

**MAWAZO S/O SADIKI..... APPELLANT**

**VERSUS**

**FITINA S/O SADIKI.....RESPONDENT**

**JUDGMENT**

09<sup>th</sup> & 09<sup>th</sup> August, 2021

**A. MATUMA, J.**

The appellant applied for extension of time to appeal to the District Land and Housing Tribunal for Kigoma at Kigoma but her application was dismissed hence this appeal.

The respondent who is the blood sister to the appellant was effectively served but defaulted appearance nor filed any Reply to the Petition of appeal. I therefore ordered exparte hearing of this appeal.

Mr. Ignatius R. Kagashe learned advocate who represented the appellant submitted that in essence the appellant did not delay in lodging her appeal

despite the fact that the trial tribunal delayed to serve her the impugned judgment. She filed her appeal on the last day of the statutory 45 days which were available for her to appeal but the appellate tribunal processed her petition of appeal for payment of filing fees on the next date 07/03/2017 in which she was issued with the receipt. That her appeal was thus regarded to have been filed on such date 07/03/2017 which was the 46<sup>th</sup> day from the date of the impugned judgment. In that respect her appeal was struck out for having been filed out of time.

That the appellant decided to lodge the application for extension of time but the same was dismissed hence this appeal. The learned advocate is faulting the District Land and Housing tribunal to have not considered that the delay in a single day was caused by the tribunal itself to delay processing the receipt for filing fees on the same very date (06/03/2017) in which the Petition of Appeal was presented for filing. He thus prayed this appeal to be allowed and the appellant be extended time within which to appeal.

Having heard the appellant, I have no doubt that this appeal has been brought with sufficient case. The appellant despite the fact that she was not given the impugned judgment soon after its delivery, she managed to prepare and present her Petition of Appeal on the last date of the time

available for her to appeal. She was thus not out of time but was not accorded opportunity to pay the filing fees on the same date.

In that respect the learned chairman ought to have considered the delay of the appellant for one day as a technical delay. In that respect she could have extended her time to appeal. Again, the parties herein are blood sisters. It is very dangerous to curtail them from further redress leaving the decision of the trial Ward Tribunal unscrutinized by at least the District Land and Housing Tribunal which is chaired by a lawyer by profession particularly when one of the parties became aggrieved with the decision.

I therefore allow this appeal, quash the ruling of the District Land and Housing Tribunal and set aside the Drawn Order thereof. I grant the appellant ten (10) days from today within which she should lodge her intended appeal. No orders as to costs.

It is so ordered.



  
**A. Matuma**

**Judge**

**09/08/2021**

**Court:** Judgment delivered in the presence of Mr. Ignatius R. Kagashe  
Advocate for the appellant and in the absence of the Respondent.

**Sgd: A. Matuma**

**Judge**

**09/08/2021**