

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(ARUSHA DISTRICT REGISTRY)  
AT ARUSHA**

**MISC. LAND APPLICATION NO. 64 OF 2020**

*(From of the District Land and Housing Tribunal for Manyara, Appeal No. 70 of 2017,  
Originating Mamire Ward Tribunal Land case No. 1 of 2017)*

**NAHAY QWARAY .....APPLICANT**

**VERSUS**

**TUKULA QWARAY .....RESPONDENT**

**RULING**

16/06/2021 & 20/08/2019

**GWAE, J**

This ruling is emanating from an application for enlargement of time within which to lodge an appeal against the judgment and decree of the District Land and Housing of Manyara at Babati dated 3<sup>rd</sup> September 2021. The application is preferred under section 14 (1) of the Law of Limitation Cap 89, Revised Edition, 2002.

The applicant's application is supported by the applicant's sworn affidavit which accounts for the delay from when the appellate tribunal decision was delivered to when the applicant's appeal was struck out on the 27<sup>th</sup> July 2020 by this Court (**Robert, J**) vide Misc. Land Appeal No. 70 of 2017.

This application has been seriously resisted by the respondent who stated that, the applicant had been not diligent in obtaining the requisite documents for filing an appeal to this court otherwise he put the applicant into strict proof

On the 15<sup>th</sup> June 2021 parties appeared before for the scheduled hearing however both parties had nothing to verbally argue.

Having examined the parties' affidavits and the records of this court, I am of the view that, the reason given by the applicant that he was availed with the copies on the 29<sup>th</sup> October 2019 while the DLHT delivered its decision on the 3<sup>rd</sup> September 2019 is not sufficient as e thus praying praying for exclusion of the dates when he was waiting the copies of decree and judgment which evidence that he actually applied for the same (**Tanzania China Friendship Textile Co. Ltd v. Charles Kabweza and others**, Civil Application No. 62 of 2015 (unreported) where the Court of Appeal (**Mwarija**, JA)). More so, had the copies of decree and judgment been a requisite for filing an appeal for the matter originating from ward tribunal, the exclusion rules would have applied but subject to cogent evidence as to the alleged request and supply.

Moreover, if I were to consider the exclusion of days for obtaining the requisite certified copies of judgment and decree, the applicant would have been found to have failed to account for delay of five (5) days before filing the appeal that was eventually struck out on 27.7.2020.

It is my considered view that the requirement of accounting for every day of delay is vitally important and the same has been emphasized by our courts in a chain of decisions, for instance in the case of **Bushiri Hassan v. Latifa Lukio Mashayo**, Civil Application No. 3 of 2007 and **Karibu Textiles Mills v. Commissioner General (TRA)**, Civil Application No. 192/20 of 2016, in the **Bushiri's** case it was rightly stated;

"Delay of even a single day has to be accounted for otherwise there would be proof of having prescribing periods within which certain steps must be taken".

I have further failed to hold that the applicant has accounted for days of delay from when his appeal was struck out (27.07.2020) to when he filed this application (28.08.2021), His affidavit is silent as those days except and affidavit one Vaileth Mungure, court clerk dated 21<sup>st</sup> September 2020 which is to the effect that the applicant presented his application for admission on 25<sup>th</sup> August 2020 but the same was not duly registered due to network problems, which, in my view, was unprocedurally annexed as the applicant

ought to have sought a leave of the court to file a supplementary affidavit to be accompanied by the affidavit of the said Vaileth.

I have however not considered it as a serious mischief taking into account that the applicant is a layperson who appeared and agued his application in person. Despite the fact that, I have considered the sworn by the said court clerk yet the applicant is found to have failed to account his delay from 27/7/2020 to 25/8/2020 when the applicant's appeal was struck out and when the said court clerk said to have received his application respectively, making a total of not less than 27 days delay.


For the reasons stated herein, I am justified to hold that the applicant has **not** given any sufficient reason to warrant this court to invoke its discretion to grant the sought extension of time to lodge an appeal against the decision of the District Land and Housing Tribunal, this application is thus dismissed for want sufficient cause. As parties are related, I refrain from making an order as to costs

It is so ordered.

  
**M. R. Gwae**  
**Judge**  
**20/08/2021**

Right of appeal explained



  
**M. R. Gwae**  
**Judge**  
**20/08/2021**