

**THE UNITED REPUBLIC OF TANZANIA**

**JUDICIARY**

**IN THE HIGH COURT OF TANZANIA**

**AT DODOMA**

**MISC. LAND APPLICATION NO. 2 OF 2021**

*(Arising from the Land Case Appeal No.100 of 2020 of The District  
Land and Housing Tribunal for Dodoma, Original decision of  
Matumbulu Ward Tribunal)*

**SAID MALYABWANA .....APPLICANT**

**VERSUS**

**SAIMON MTEGULO..... RESPONDENT**

**RULING**

*Date of Last Order: 10.08.2021*

*Date of Ruling: 19.08.2021*

**MAMBI, J.**

This is an application for an extension of time to appeal against the decision of The District Land and Housing Tribunal out of time. The applicant filed an application supported by an affidavit seeking for an extension of time.



During hearing both parties were unrepresented.

The applicant briefly submitted that he has filed his application for extension of time to appeal out of time. He briefly argued that the applicant has sufficient reason as he was supplied late with the documents.

In response, the respondent briefly submitted that the applicant has no sufficient reasons for the delay and he just delaying the matter.

He argued that it has taken a long time since the matter was decided. He argued that the application has no merit and there was no any sufficient reasons indicated under the respondent's counter affidavit.

In his rejoinder, the applicant briefly submitted that he has clearly indicated his good cause for delay under the affidavit.

I have considerably perused the documents such as affidavit and other documents on the file and considered the submissions made by both parties to find out whether this application has merit or not. The key question to be determined and answered is whether the applicant has advanced sufficient reason in his application or not.

The position of the law with regard to this type of application is clear that where any party seeks for an extension of time to file an appeal out of time he is required to advance sufficient reasons in his affidavit before the court can consider and allow such application. Even if the applicant is relaying on illegality, he/she must clearly show the point of law on those illegalities. In this regard, I wish to refer the decision of the Court of Appeal of Tanzania in **REGIONAL MANAGER,**

**TANROADS KAGERA V. RUAHA CONCRETE COMPANY LTD CIVIL APPLICATION NO.96 OF 2007 (CAT unreported).** The court in this case observed that;

*“the test for determining an application for extension of time, is whether the applicant has established some material amounting sufficient cause or good cause as to why the sought application is to be granted”.*

This means that in determining an application for extension of time, the court has to determine if the applicant has established some material amounting sufficient cause or good cause as to why the sought application is to be granted. This means that the court needs to consider an issue as to whether the applicant in his affidavit has disclosed good cause or sufficient reasons for delay. In other words, the court need to take into account factors such as reasons for delay that where the applicant is expected to account of cause for delay of every day that passes beyond the aforesaid period, lengthy of the delay that is to shown such reasons were operated for all the period of delay.

My perusal from the records has not seen any sufficient reason for application of an extension of time and there is neither point of law nor any clear point of illegality that warrants sufficient reason that could have moved this court to grant leave for this application. Looking at the affidavit, the applicant has not indicated any sufficient reason apart from just saying that the delay was caused by the tribunal. One could ask the question that can this amount to

sufficient reasons?. In my view this cannot be said to be the sufficient reasons for delay as the applicant was required to show what blocked or bared him from filling his application immediately after the ruling was made. Indeed the applicant has not counted each day of the delay.

As underscored by the Court in **MEIS INDUSTRIES LTD AND 2 OTHERS VERSUS TWIGA BANK CORP; Misc Commercial Cause No. 243 of 2015**: High Court of Tanzania (Commercial Division) at Dar es Salaam (Unreported) which was cited by the applicant respondent that:

*“(i) An application for extension of time is entirely in the discretion of the Court to grant or to refuse it, and that extension of time may only be granted where it has been sufficiently established that the delay was with sufficient cause...”*

The Court of Appeal of Tanzania in **BARCLAYS BANK TANZANIA LTD VERSUS PHYLICIAN HUSSEIN MCHENI**; Civil Application No 176 of 2015 at Dar es Salaam (Unreported) where it was held,

*“Among factors to be considered in an application for extension of time under Rule 10 of the Court of Appeal Rules, 2009 are:-*

*(a) The **length** of the delay*

*(b) The reason of the delay – whether the delay was caused or contributed by the dilatory conduct of the applicant?*

*(c) Whether case such as whether there is a **point of law or the illegality** or otherwise of the decision sought to be challenged.”*

The court in **KALUNGA AND COMPANY, ADVOCATES Versus NATIONAL BANK COMMERCE LIMITED (supra)** held that:

*“Under Rule 8 of the Court of Appeal Rules 1979, the Court has a wide discretion to extend time where the time has already expire, but where there is inaction or delay on the part of the applicant, there ought to be some kind of explanation or material upon which the Court may exercise the discretion given”.*

It appears the applicant was not serious in filing his appeal within time and he has not indicated any sufficient reason in his affidavit. See the decision of the Court in **REGIONAL MANAGER TANROADS KAGERA VS RUAHA CONCRETE CO LTD (supra)**, where the court underscored as to what it amounts to “sufficient cause.

The court in **KALUNGA AND COMPANY, ADVOCATES Versus NATIONAL BANK COMMERCE LIMITED (supra)** held that:

*“Under Rule 8 of the Court of Appeal Rules 1979, the Court has a wide discretion to extend time where the time has already expire, but where there is inaction or delay on the part of the applicant, there ought to be some kind of explanation or material upon which the Court may exercise the discretion given”.*

I am aware that an application for extension of time is entirely in the discretion of the Court to grant or to refuse it, and that extension of time may only be granted where it has been sufficiently established that the delay was with sufficient cause. See **MEIS INDUSTRIES LTD AND 2 OTHERS VERSUS TWIGA BANK CORP (Supra)**.

Looking at the affidavit by the applicant, I have not seen sufficient reasons for his delay. The applicant under the affidavit did not indicate any sufficient reasons for the delay.

Pursuant to the foregoing, I am of the firm considered view that this application has no merit since the applicant has failed to present sufficient reasons for his application for an extension of time under the application at hand. In the view of aforesaid, this application is unmerited and it is accordingly dismissed. All parties to bear their own costs. It is accordingly ordered so.



**A. J. MAMBI**  
**JUDGE**  
**19.08 2021**

Ruling delivered in Chambers this 19<sup>th</sup> day of August, 2021 in presence of both parties.



**A. J. MAMBI**  
**JUDGE**  
**19.08 2021**

Right of appeal fully explained.



**A. J. MAMBI**  
**JUDGE**  
**19.08 2021**