

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

**MISC. LAND APPLICATION NO. 15 OF 2021**

*(Originates from the Decision of High Court of Dodoma at Dodoma Land  
Appeal No 25 of 2020)*

**ANDREA MPUME MUNA ..... APPLICANT**

**VERSUS**

**SALOME SAMSON SAMBAA ..... RESPONDENT**

**RULING**

*Date of last order: 03.08.2021*

*Date of Ruling; 12.09.2021*

**MAMBI, J.**

The applicant filed an application for extension of time to file application for leave to appeal to the Court of Appeal out of time. In his application supported by an Affidavit the applicant filed an application (**MISC. LAND APPLICATION NO. 15 OF 2021**) for an application for an extension of time to challenge the decision of this court. In his application, the applicant has prayed to this court to grant leave for his application. The application is supported by an affidavit where the applicant has stated his reasons for his delay.

During hearing, the applicant who was unrepresented briefly submitted that he is seeking for an order for extension of time to lodge notice of appeal against the under the affidavit. The applicant briefly argued that the applicant have indicated his reasons for the delay in his affidavit.

In response, the respondent who was also unrepresented contended that the application has no merit since the affidavit does not clearly disclose the reason for the delay. She argued that the applicant is just delaying the matter since he has no reason for his delay.

I have considerably perused the application supported by an affidavit. I have also keenly considered the submissions made by both parties to find out whether this application has merit or not. The main issue to be determined is whether the applicant has properly addressed this court in his application. Having gone through the application by the applicant, I found the applicant properly filed his application for extension of time to file an application for leave to appeal to court of appeal. In my view what is at this court is just one prayer and this court will only issue one order if the applicant has advanced sufficient reasons for his delay.

In other words, the main legal question to be determined is whether the applicant has properly moved this court in his application and whether there are any good causes for his delay or not. It is trite law that any party seeks for an extension of time to file an appeal or application out of time he

is required to advance sufficient reasons in his affidavit before the court can consider and allow such application. This is the position of the law with and case studies. 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”.*

In other words, 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. The court needs to consider an issue as to whether the applicant in his affidavit have disclosed good cause or sufficient reasons for delay. In other words, the court needs to take into account factors such as reasons for delay that where the applicant is expected to account of cause for delay of vey 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.

I also wish to refer the decision of the court in **BARCLAYS BANK TANZANIA LTD VERSUS PHYLICIAN HUSSEIN MCHENI**; Civil Application No 176 of 2015 Court of Appeal of Tanzania at Dar es Salaam (Unreported) underscored that;

*“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.”*

Worth also at this juncture referring the decision of the court in **MEIS INDUSTRIES LTD AND 2 OTHERS VERSUS TWIGA BANK CORP; Misc Commercial Cause No. 243 of 2015** (Unreported) where it was held 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...”*

Looking at the application before this court, the applicant in his affidavit has clearly indicated that he had sufficient reasons for his delay. It is clear from the affidavit and other records that the applicant has clearly stated the sufficient reasons based on technical delay and illegality on the decision of the trial tribunal.

My perusal from the records especially affidavit and submission have revealed that the applicant has established that there is a point of law or the illegality as indicated under paragraphs 4, 5, 6 and 7 of his affidavit

Indeed, the question as to what it amounts to “sufficient cause” was underscored in **REGIONAL MANAGER TANROADS KAGERA VS RUAHA CONCRETE CO LTD CIVIL APPLICATION NO 96 of 2007**, where the court observed the following:-

*“What constitutes sufficient reasons cannot be laid down by any hard or fast rules. This must be determined by reference to all the circumstances of each particular case. This means **the applicant must place before the court material which will move the court to exercise judicial discretion in order to extend time limited by rules**”(emphasis supplied).*

Similarly, The Court in **TANGA CEMENT AND ANOTHER CIVIL APPLICATION NO 6 OF 2001** clearly held that:

*“What amounts to sufficient cause has not been defined. From decided cases a number of factors has to be taken into account including whether or not the application has been brought promptly; the absence of any or valid explanation for delay; lack of diligence on the part of the applicant”.*

Reference can also be made to the decision of Court of Appeal in **MOBRAMA GOLD CORPORATION LTD Versus MINISTER FOR ENERGY AND MINERALS, AND THE ATTORNEY GENERAL, AND EAST AFRICAN GOLDMINES LTD AS INTERVENOR, TLR, 1998** in which the court at **Page 425** held that

*“It is generally inappropriate to deny a party an extension of time where such denial will stifle his case; as the respondents’ delay does not constitute a case of procedural*

*abuse or contemptuous default and because the applicant”  
will not suffer any prejudice, an extension should be granted.*

The argument by the respondent that the applicant has failed to show sufficient reasons in his affidavit has no merit. I agree with the applicant that he has advanced and presented sufficient reasons for delay and the extent of such delay in his application and he has also indicated that there a point of law on illegality involved

I agree with the applicant that he has advanced and presented sufficient reasons for delay and the extent of such delay in his application. I also wish to refer the Law of Limitation Act. The relevant provision is section 14 (1) of the Law of Limitation Act Cap.89 [R.E. 2019] which provides as follows:-

*“14-(1) Notwithstanding the provisions of this Act, the court may, **for any reasonable or sufficient cause**, extend the period of limitation for the institution of an appeal or an application, other than an application for such execution of a decree, and **an application for such extension may be made** either before or after the expiry of the period of limitation prescribed for such appeal or application (emphasis mine)”.*

I am of the considered view that this application has merit and this court finds proper the applicant to be granted an extension of time to file an application for leave to appeal to

the court of appeal out of time. This means that the applicant has to file his application to this court if he wishes to do so. The applicant shall file his application for to this court within 21 days from the date of this ruling.



**Dr. A. J. MAMBI**

**JUDGE**

**12/08/2021**

Ruling delivered in Chambers this 12<sup>th</sup> day of **August, 2021** in presence of both parties.



**Dr. A. J. MAMBI**

**JUDGE**

**12/08/2021**

Right of appeal explained.



**Dr. A. J. MAMBI**

**JUDGE**

**12/08/2021**