

**IN THE HIGH COURT OF TANZANIA  
(MTWARA DISTRICT REGISTRY)  
AT MTWARA  
MISC. LAND APPEAL NO 16 OF 2020**

*( From the Decision of the District Land and Housing of Lindi at Lindi in Land Appeal No. 85/2019 and Original Ward Tribunal of Mtua Ward in Application No. 88/2019)*

**AMINA A. TANGALE ..... APPELLANT**

**VERSUS**

**HAMISI WAMKWAYA ..... RESPONDENT**

**RULING**

**26<sup>th</sup> August, 2021**

**W. P. DYANSOBERA, J**

The respondent, through Mr. Songea learned Counsel assisted by Ms. Tekla, learned advocate has raised a preliminary objection that the appellant's appeal is bad in law and prematurely filed out of time.

The respondent's argument is based on the fact that the impugned judgment of the District Land and Housing Tribunal for Lindi was delivered on 28.2.2020 and the present appeal was filed on 29.9.2020 which is outside the prescribed time limit of sixty days.

The preliminary objection is supported by some case laws.

Mr. Bakari Mohamed Mpunju, who is holding powers of attorney for the appellant has resisted the preliminary objection. He argues that though the judgment of the lower Tribunal appealed against was delivered on 28.2.2020, it was not until on 4.9.2020 when they were issued with a copy of judgment and thereafter did, on 29.9.2020 file this appeal.

According to him, this appeal is therefore in time. He explained that after delivery of the judgment, the Hon Chairperson went on maternity leave.

On a short rejoinder, Mr Songea maintained that the appeal is time based and should be dismissed as per the law.

Having considered the preliminary objection and the record of the District Land and Housing Tribunal, I am in no doubt that the record is clear that the impugned judgment was delivered on 28.2.2020 and the present appeal was filed on 29.9.2020.

Section 389(1) of the Land Disputes Courts Act [Cap 216 R.E 2019] provides that.

“ Any party who is aggrieved by a decision of the or order of the District Land and Housing Tribunal in the exercise of its appellate or revisional jurisdiction, may within sixty days after the date of the decision or order appeal to the High Court.

The High Court has, however been conferred with power to extend time either before or after such period of sixty days has expired provided good and sufficient cause is shown”.

This is provided for under sub section (2) of Section 38 of the Act.

As rightly pointed out by Mr. Songea this appeal has been filed outside the prescribed time of sixty days.

If the appellant thinks that she has good and sufficient cause to have the appeal period extended, she has to assign good and sufficient reasons and such good and sufficient reasons have to feature in an affidavit supporting a property filed application for such relief.

As the matter exists, this appeal is incompetent and since the time limitation touches the jurisdiction of this court, then, I have no alternative but to accede to the preliminary objection.

Accordingly the respondent's preliminary objection is upheld and the appeal is dismissed with costs to the respondent.



  
**W. P. Dyansobera**

**Judge**

**26/08/2021**