

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

AT KIGOMA

(APPELLATE JURISDICTION)

MISC. LAND APPLICATION NO. 27 OF 2021

(Arising from Land Application No. 132/2016 of District Land and Housing Tribunal Kigoma,
before Hon. F. Chinuku - Chairperson)

BASOA MFAUME APPLICANT

VERSUS

ULIMWENGU SUNGURA HAMIMU RESPONDENT

RULING

15/11/2021 & 15/11/2021

L.M. MLACHA, J.

The applicant, BASOA MFAUME filed an application against the respondent, ULIMWENGU SUNGURA HAMIMU seeking extension of time within which to appeal against the decision of the District Land and Housing Tribunal for Kigoma (the DLHT) made in Land Application No. 132 of 2016. The application is made under section 41 (2) of the Land Disputes Courts Act, Cap 216 R.E. 2019 and is supported by the affidavit of the applicant. The respondent was duly served and filed a counter affidavit in opposition.

When the case was called for hearing earlier in the morning today, Mr. Moses Rwegoshora who appeared for the applicant told the court that the



applicant was sick and admitted in hospital on 8/2/2021 for seven days hence the delay. He proceeded to say that, she had undergone an operation and given his age (of above 70), she could not recover quickly. She took time to recover but soon engaged a lawyer to prepare the present application which was filed on 12/5/2021. He argued that sickness is a ground for extension of time and requested the court to allow the application. The respondent did not dispute that the applicant was sick and admitted in hospital. He however said that she could act quickly after being released from Hospital. He objected the application.

I had time to peruse the pleadings and their attachments. The judgement of the DLHT was delivered on 5/2/2021. The present application was presented for filing on 12/5/2021. There is a gap of 3 month and 9 days which has to be accounted for. The applicant says that she was sick in the period. The letter from Kigoma referral Hospital signed by Dr. Wilson Fungo indicates that the applicant was admitted on 8/2/2021. The doctor described the problem in Swahili saying; "Alilazwa na kupatiwa matibabu ya kuondolewa uvimbe uliokuwa ndani ya mdomo ... baada ya kufanyiwa matibabu alilazwa siku saba" Literally meaning that the applicant was operated and admitted in hospital for 7 days before being discharged.



Counsel for the applicant says that given the nature of the operation and the age of the applicant, she could not recover soon. It took sometime to recover. I agree with him.

A correctly observed by counsel for the applicant, sickness of the applicant, if proved, is a ground for extension of time see **Alasai Josiah (suing by his Attorney Oscar Savuka) v. Lotus Valley Ltd**, CAT Civil Application No. 498/12 of 2019. There is no doubt that the applicant had undergone an operation which made her to be on the hospital bed for 7 days. She was thereafter released to proceed to recover while at home. We are not told when she recovered fully, but it must have taken a longtime. It follows that, the applicant had a good cause to justify the delay.

That said the application is found to have merits and granted. The applicant is given 14 days within which to lodge his appeal to this court. It is ordered so. No order for costs.



A handwritten signature in blue ink, appearing to read "L.M. Mlacha", is written over a horizontal line.

L.M. Mlacha

JUDGE

15/11/2021

Court: Ruling delivered in chamber in the presence of both parties. Right of appeal explained.



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L.M. Mlacha

JUDGE

15/11/2021