

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

LAND CASE REVISION NO. 05 OF 2020
(Originating from Land Appeal No. 06/2018 of Bukoba DLHT)

BRANDINA N. HELMAN -----APPLICANT
Versus
DEOGRATIAS PETRO -----RESPONDENT

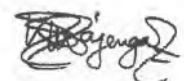
RULING

Date of last order: 12/10/2021

Date of Ruling: 12/10/2021

Kilekamajenga, J.

When this case was before the District Land and Housing Tribunal of Bukoba as an appellate tribunal, the parties were ordered to file written submissions to dispose of this case. The applicant was ordered to file the written submission on or before 30/06/2020 and the case was scheduled for mention on 16/07/2020. On that day however, the case was dismissed on the reason that the applicant failed to comply with the order of the appellate tribunal. Aggrieved with the order of the District Land and Housing Tribunal, the applicant approached this Honourable Court by way of review. The application was made by way of chamber summons under **section 43 (1) (a) and (b) of the Land Disputes Courts Act, Cap. 216, RE 2002** and was accompanied with an affidavit of the counsel for the applicant, Mr. Gerase Reubeni (Advocate).




The Court invited the parties to argue the application. The applicant was absent but represented by the learned advocate, Mr. Gerase Reuben and the respondent was present in person. Before this Court, the counsel for the applicant argued that, it was wrong for the tribunal to dismiss the appeal while the applicant filed the written submission on 25/06/2020 and paid for the written submission at CRDB Bank and was issued proof of payment (receipt). The counsel urged the Court to see the receipt and the applicant's submission. On the other hand, the respondent, who was unrepresented, was content that the appeal was dismissed because the applicant failed to comply with the order of the appellate tribunal.

In determining the instant application, I considered the submissions from the parties and also perused the records of the Court. It is obvious that the applicant was ordered to file the written submission while she was absent. Furthermore, the record clearly shows that the applicant filed the written submission on 25/06/2020 and the tribunal received it. The applicant paid for the written submission on 30/06/2020. It is very unfortunate that when the matter came for mention on 16/07/2020, the chairman of the tribunal wrongly dismissed the appeal on the ground that the applicant failed to file the submission as scheduled. In my view, this was a misdirection on the part of the learned chairman. Based on that reason, I hereby allow the application and order appeal

No. 06 of 2018, which was wrongly dismissed, be restored and be heard on merit to determine the rights of the parties. Costs of this application shall follow in the Court. It is so ordered.





Ntemi N. Kilekamajenga
JUDGE
12/10/2021

Court:

Ruling delivered this 12th October 2021 in the presence of the counsel for the applicant, Mr. Gerase Reuben and the respondent present in person. Right of appeal explained to the parties.




Ntemi N. Kilekamajenga
JUDGE
12/10/2021

