

IN THE HIGH COURT OF TANZANIA

TABORA DISTRICT REGISTRY

AT TABORA

MISCELLANEOUS LAND CASE APPLICATION NO. 31 OF 2020

(Arising from Land Appeal No. 61 of 2019 Tabora District land and
Housing Tribunal, Originating from Land Case No. 18 of 2019
Urambo Ward Tribunal)

SALIMA JUMA KASUWIAPPLICANT

VERSUS

MAJALIWA KANDEGE KALOVYA.....RESPONDENT

RULING

Date of Submission: 9/11/2021

Date of Delivery: 9/11/2021

AMOUR S. KHAMIS, J.

Salima Juma Kasuwi is aggrieved by the Judgment and Decree of the District Land and Housing Tribunal for Tabora in Land Case Appeal No. 61 of 2019 and intends to challenge it in this Court.

In the present application, she moved this Court to extend time within which to lodge an appeal against a Judgment which declared

Majaliwa Kandege Kalovya as the lawful owner of the disputed property.

The application was made by way of Chamber Summons under Section 38 (1) of the Land Disputes Courts Act, Cap. 216, R.E. 2019.

The affidavit affirmed by Musa Kassim, learned advocate of this Court, supported the application.

Mr. Musa Kassim deposed that the impugned Judgment was delivered on 24/7/2020 and immediately thereafter, the applicant applied for copies of the Proceedings, Judgment and Decree.

He deposed further that despite of timely request, the vital documents were not supplied by the trial tribunal until on 21st August 2020.

Mr. Kassim stated that the impugned decision was tainted with illegalities, namely: the opinion of assessors were not read to the parties before delivery of Judgment and were not considered by the trial Chairman.

When the matter was set for hearing, the applicant was absent but Mr. Kelvin Kayaga, learned advocate for the respondent, appeared solely.

Mr. Kayaga informed this Court that the respondent neither filed a counter affidavit nor intended to oppose the application. He moved the Court to grant the application.

It is trite law that an application for extension of time will be granted where the applicant disclosed a good or sufficient reason for the delay.

In the present case, the applicant through Mr. Musa Kassim's affidavit, depicted that timely filing of appeal was obstructed by late supply of the vital documents, namely; the proceedings, judgment and decree issued by the appellate tribunal.

The applicant has equally demonstrated that there is an illegality on face of the records, a fact that was not disputed by the respondent's counsel.

In the circumstances, I find sufficient reason for grant of the application has been shown. The application is thus allowed.

Let the applicant file the intended appeal within thirty (30) days from date of delivery of this ruling. I make no order for costs. It is so ordered.

AMOUR S. KHAMIS

JUDGE

9/11/2021

AFTER COMPOSITION OF THE RULING:

MR. MUSA KASSIM, ADVOCATE:

My Lord, I apologize for the delay as I was attending a murder case in the High Court (Extended Jurisdiction) (RMS Court Extended

Jurisdiction) before Hon. Kato, SRM E/J. I am very sorry for the inconveniences caused.



AMOUR S. KHAMIS

JUDGE

9/11/2021

ORDER:

Ruling delivered in Chambers in presence of Mr. Kelvin Kayaga, advocate for the respondent and Mr. Musa Kassim, advocate for the applicant. Right of Appeal explained.



AMOUR S. KHAMIS

JUDGE

9/11/2021