

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

**MISC. LAND APPLICATION NO. 30 OF 2021**

*(Arising from the Decision of the District Land and Housing  
Tribunal for Manyoni at Manyoni from in Land Application  
No.18 of 2017)*

**MASSAKA ASHERY MWINJE.....APPLICANT**

**VERSUS**

**SALMA ALMASI .....1<sup>st</sup> RESPONDENT**

**SALMA ALMASI .....2<sup>nd</sup> RESPONDENT**

**MKIBAIGWA AUCTION MART AND  
COMPANY.....3<sup>rd</sup> RESPONDENT**

**RULING**

*Date of last order: 10.11.2021*

*Date of Ruling; 10.11.2021*

**Dr. A.J. MAMBI, J.**

This Ruling emanates from an application filed by the applicant. In their application supported by an Affidavit the applicants filed an application (**MISC. LAND APPLICATION NO. 30 OF 2021**) for an application for an extension of time to appeal out of time. In his application the applicant has prayed

to this court to allow him to file appeal out of time against the decision made by the DLHT. The application is supported by an affidavit where the applicant has stated his reasons for this delay.

In his submission, the applicant through his learned Counsel Mr Komba briefly submitted that he pray to adopt his affidavit which has grounds for the reasons. He argued that the applicant is seeking for an order for extension of time to appeal out of time against the decision of the District Land and Housing Tribunal. The learned Counsel briefly submitted that the applicant has stated his grounds of appeal under the affidavit.

In response, the respondent Counsel briefly submitted that the respondents have no objection with the application.

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. There is no dispute that the respondent has no objection on this application. However this court is duty bound to consider and determine the issue as to whether the applicant has advanced sufficient reasons for this court to consider his application for an extension of time to file an appeal out of time. It should also be noted that extension of time is mainly based on the discretion of the court.

In my considered view the main issue in this matter is whether the applicant has properly moved this court in his application

and whither there are any good causes for their delay or not. I am aware that where any party seeks for an extension of time to file an appeal 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”.*

This means that 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. 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.

Reference can also be made to 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...”*

The records reveal that the applicant in his affidavit has clearly indicated that he had sufficient reasons for their delay. It is clear from the affidavit and other records that the applicant has clearly stated the sufficient reasons for his delay. I agree with both parties that it took some time for the applicant to file his new application; however the reasons stated by the applicant in his affidavit are more convincing. In my view, the grounds under the affidavit were good causes and

sufficient reasons for his delay. My perusal on the applicant's documents including his affidavit in line with his submission has found that the applicants have indicated reasonable or sufficient cause to enable this court to consider and grant their application. 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.*

I agree with the applicant Counsel as supported by the respondents’ counsel that that the applicant 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 to of law involved. 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. 2002] 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 his appeal out of time.

The applicant shall file his application within 30 days from the date of this ruling.



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**Dr. A.J. MAMBI**

**JUDGE**

**10.11.2021**

Ruling delivered in Chambers this 10<sup>th</sup> day of November, 2021  
in presence of both parties.



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**Dr. A.J. MAMBI**

**JUDGE**

**10.11.2021**

Right of appeal explained.



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**Dr. A.J. MAMBI**

**JUDGE**

**10.11.2021**