

**THE UNITED REPUBLIC OF TANZANIA**  
**JUDICIARY**  
**THE HIGH COURT OF TANZANIA**  
**IN THE DISTRICT REGISTRY OF DODOMA**  
**AT DODOMA**  
**MISC. LAND APPLICATION NO. 62 OF 2021**

*(Originates from the Decision of High Court of Dodoma at Dodoma Land  
Appeal No 61 of 2021 and Land Case Appeal No.90 of 2017 from the  
DLHT For Singida)*

**JUMANNE MTITI .....1<sup>st</sup> APPLICANT**  
**CHARLES FESTO .....2<sup>nd</sup> APPLICANT**  
**AMINA IYANGA .....3<sup>rd</sup> APPLICANT**

**VERSUS**

**JUMANNE KIPANDWA .....1<sup>st</sup> RESPONDENT**  
**IBRAHIM MTITI .....2<sup>nd</sup> RESPONDENT**

**RULING**

*Date of last order: 06/12/2021*

*Date of Ruling: 07/12/2021*

**A.J. Mambi, J.**

The applicants filed an application for extension of time to file an application for leave to appeal to the Court of Appeal. In their joint application supported by joint Affidavit the applicants filed an application for an extension of time to file an application for leave to challenge the decision of this court.

In his application, the applicants have prayed to this court to grant leave for their application.

During hearing, the applicants who were represented by the learned Counsel Mr Komba briefly submitted that they are seeking for an order for extension of time to apply for leave to appeal to the Court of Appeal. The applicants briefly averred that they rely under para 6 and 7 of their affidavit where their grounds for extension of time are stated. They added that they were supplied with the documents late.

In response, the respondent who was also unrepresented contended that the application has no merit since the copy of the Judgment was supplied on time and finally submitted that there is no reason advanced in the application.

I have keenly gone through the application supported by an affidavit. I have also considered the submissions made by both parties to determine this application. The main issue to be determined is whether the applicants have advanced sufficient reasons.

In my view what is at this court is just one prayer and this court will only issue one order if the applicants have advanced sufficient reasons for their delay. In other words, the main legal question to be determined is whether the applicants have properly moved this court in their application and whether there are any good causes for his delay or not.

It is the cardinal principle of law that any party seeking for an extension of time to file an appeal or application 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 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”.*

The court needs to consider an issue as to whether the applicants in their affidavit have disclosed good cause or sufficient reasons for delay. In other words, the court needs to take into account factors such as reasons for delay. That is where the applicant are expected to account causes for delay of every day that passes beyond the aforesaid period. Lengthy of the delay is to be shown that such reasons were operated for all the period of delay.

I also wish to refer 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...”*

Looking at the application before this court, the applicants in their affidavit have clearly indicated they he had sufficient reasons for their delay.

My perusal from the records especially affidavit and submission have revealed that the applicant have established that there is a point of law or the illegality as indicated under paragraphs 4, 5, 6 and 7 of his affidavit.

I also wish to refer the decision of the court **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”.*

Worth also referring 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.*

The argument by the respondent that the applicant has failed to show sufficient reasons in his affidavit has no merit. I agree with the applicants that they have advanced and presented sufficient reasons for delay and the extent of such delay in their application. I also wish to refer section 14 (1) of the Law of Limitation Act Cap.89 [R.E. 2019] 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 applicants to be granted an extension of time to file an application for leave and notice of appeal to appeal to the court of appeal out of time. This means that the applicants have to file their application to this court if they wishes to dos so.

The applicants shall file their application to this court within 21 days from the date of this ruling.

**A. J. MAMBI**

**JUDGE**

**07/12/2021**



Ruling delivered in Chambers this 7<sup>th</sup> day of December, 2021 in presence of both parties.

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**A. J. MAMBI**

**JUDGE**

**07/12/2021**

Right of appeal explained.

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**A. J. MAMBI**

**JUDGE**

**07/12/2021**