

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LAND DIVISION)
IN THE DISTRICT REGISTRY OF MUSOMA
AT MUSOMA**

Misc. LAND APPLICATION No. 15 OF 2022

(Arising from the High Court (Musoma District Registry) in Misc. Civil Reference No. 1 of 2022; the District Land of Housing Tribunal for Mara at Musoma in Misc. Land Application No. 1000 of 2021 & Land Appeal Case No. 153 of 2021; originating from Nagusi Ward Tribunal in Land Case No. 9 of 2021)

CHAHUSIKU MANYINYA APPLICANT

Versus

NYAMWIKONDO KINARA KINOKO RESPONDENT

RULING

21.04.2022 & 21.04.2022

Mtulya, F.H., J.:

Two (2) lay women appeared in this court today afternoon without any legal representation, namely: Chausiku Manyinya (the applicant) and Nyamwikondo Kinara Kinoko (the respondent) contesting on an application for extension of time to file reference in this court to dispute the decision of the the **District Land of Housing Tribunal for Mara at Musoma** (the tribunal) in **Misc. Land Application No. 1000 of 2021** (the application).

In her submission, the applicant stated briefly that she had previously preferred **Misc. Civil Reference No.1 of 2022** (the Reference) in this court within time, but it was struck out for want of competence. The appellant stated further that the lack of competence was caused

by failure to attach a copy of the decision of the tribunal in the application and claimed further that she was prompt in applying for the copy and was issued to her on 15th February 2022. Following acquisition of the copy, the applicant stated that, she rushed to Mzee Makongo, learned counsel to prepare and file the necessary documents in *Mtandao*. To her opinion, her level of understanding as a villager ended there as she is unaware of the science called *Mtandao*.

However the submission was protested by the respondent contending that the applicant produced facts which are not in the affidavit and in any case she did not account for every day of the delay from the 15th February 2022 when she receive the copy of the application in the tribunal to 22nd February 2022 when she filed the present application.

On my side, I think, the law regulating extension of time requires applicants to produce good cause or sufficient reason to persuade this court to grant the application in their favour. In **Oswald Masatu Mwizarubi v. Tanzania Processing Ltd**, Civil Application No. 13 of 2010, our superior court observed that:

*What constitutes **good cause cannot be laid down by any hard and fast rules**. The term good cause is a relative one and is dependent upon party seeking*

*extension of time to provide the **relevant material** in order to move the court to exercise its discretion.*


In the present application, the applicant had produced the reason of vigilance in following up her dispute and science called *Mtandao* in filing the present application. The respondent on the other hand questioned on the accountability of every day of the delay from 15th February 2022 to 22nd February 2022. I am aware that applicants for extension of time must register reasons of delay on every day of the delay (see: **Bushiri Hassan v. Latifa Lukio Mashayo**, Civil Application No. 3 of 2007). The idea is to restrict applicants for enlargement of time to file applications for extension of time as to when they so wish (see: **Bank of Tanzania v. Saidi Malinda & 30 Others**, Civil Ref. 3 of 2014). However, I shall keep myself reminded of the general principle that every case is decided upon its peculiar facts (see: **NBC Limited & Another v. Bruno Vitus Swalo**, Civil Application No. 139 of 2019).

The applicant in the present application displayed vigilance in following up her case in the tribunal and in this court in good faith seeking her right determined in this court. She is also a villager complaining on science *Mtandao*, which part of the movement towards *Mahakama Mtandao*, which must take due regard to villagers. In any case, the applicant had already filed her previous application

within time and it was turned down for want of competence caused by the third party, tribunal in the application. In my considered opinion, I think, applicants who produce materials depicting vigilance and good faith in following up their applications in our courts may be positively considered for enlargement of time to file disputes out of time in this court (see: **Royal Insurance Tanzania Limited v. Kiwengwa Strand Hotel Limited**, Civil Application No. 116 of 2008).

All said and done, I have decided to grant the applicant fourteen days (14) leave to prefer Reference in this court, without any further delay. As the contest originated in dispute related to costs, and yet to be resolved. I award no costs in this application.

Ordered accordingly.



F. H. Mtulya

Judge

21.04.2022

Court: This Ruling was delivered in chambers under the seal of this court in the presence of the applicant, Chausiku Manyinya and in the presence of the Respondent, Nyamwikondo Kinara Kinoko.



F. H. Mtulya

Judge

21.04.2022