

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

AT TABORA

MISC. LAND APPLICATION NO. 16 OF 2021

*(Arising from the decision of Land Appeal No. 32/2020 of the District
Land and Housing tribunal of Nzega at Nzega)*

MWAJUMA JUMAAPPLICANT

VERSUS

ZAINABU MOHAMED.....RESPONDENT

RULING

Date: 15/3/2022& 22/4/2022

BAHATI SALEMA, J.:

The applicant hereinabove, **MWAJUMA JUMA** filed this application under section 95 of the Civil Procedure Code, Cap 33 [R.E 2019] and Regulation 8 of the Court Fee Rules, 2018, GN. No. 247 of 2018, seeking the orders of extension of time to file an appeal out of time with the exemption of court fees and any other order this Court may deem fit to grant.

The grounds as deposed in the affidavit upon which an extension of time is sought are paraphrased into two grounds as follows: -

- 1. That since my economic situation is not proper, I decided to seek legal aid from the Tanganyika Law Society. Witnesses to the same are hereby annexed and form part of this affidavit.*
- 2. I am poor enough not to be able to afford even my health care. Copies of hospital fee exemptions are hereby requested and form part of this affidavit.*

In her counter-affidavit, the respondent Zainab Mohamed strongly disputed the application assertions and required her to strictly prove therefrom.

When the application was called up for hearing the parties appeared in person unrepresented.

Submitting in support of the application, the applicant stated that she failed to file within the time since she was sick and her advocate was busy in Dodoma attending official duties. She gave him all the documents and left them with him.

In response, the respondent bitterly stated that what the applicant was telling this court was all lies. The documents which have been submitted to this court were before the judgment was delivered. Hence, she had ample time to appeal. She prayed to this court to dismiss her application.

Of all the reasons laid down by the applicant in her affidavit, this court has not been convinced by the reasons adduced for the delay, which would enable her to file an appeal outside the prescribed time.

It is trite law that an application for an extension of time is entirely in the discretion of the court to grant or refuse it and that an extension of time may only be granted where it has been sufficiently established that the delay was with sufficient cause.

Upon perusal of the court records, the judgment was delivered on 10/2/2021 while the Annexure MJ.1 " *Utoaji wa Msaada Kisheria kwa Bi Mwajuma Juma* was given on 23/7/2020 and Annexure MJ 2 the letter on "YAH :OMBI LA MSAMAHA WA MATIBABU KWA BI MWAJUMA JUMA MIGETO MKAZI WA WILAYA YA IGUNGA TABORA" was dated January 25, 2019. Hence, it is evident that the annexures were given before the delivery of the judgment. Thus I am not satisfied with the reason advanced by the applicant that the delay in filing his appeal was caused by his advocate.

In view of this, I agree with the respondent submission that the applicant has failed to demonstrate sufficient reasons warranting the grant of the application.

Having said that, I hereby disgrant the application. Since the application is made under section 95 of the Civil Procedure Code and Regulation 8

of the Court Fees Rules, 2018 GN No. 247 of 2018. I make no order as to costs.

Order accordingly.

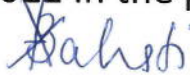


A. BAHATI SALEMA

JUDGE

22/4/2022

Ruling delivered under my hand and seal of the court in the Chamber, this 22th day of April, 2022 in the presence of both parties.



A. BAHATI SALEMA

JUDGE

22/04/2022

Right to appeal is hereby explained.



A. BAHATI SALEMA

JUDGE

22/04/2022