

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

**MISC. LAND APPLICATION NO. 24 OF 2021**

*(Originating from the High Court of Tanzania at Dodoma*

*Misc. Land Appeal No.78/2019 and Land Application N.111 of 2016 of the  
District Land and Housing Tribunal for Singida at Singida)*

**SHABANI MUSSA MTAKATA.....APPLICANT**

**VERSUS**

**ISSA SHABANI .....1<sup>st</sup> RESPONDENT**

**SALIMA HASSANI .....2<sup>nd</sup> RESPONDENT**

**MBARUKU KHERI .....3<sup>rd</sup> RESPONDENT**

**RULING**

*Date of Ruling; 25/05/2022*

**A. Mambi, J.**

The applicant filed an application for extension of time to file an application for leave to appeal to the Court of Appeal out of time. In his application supported by an Affidavit the applicant filed an application (**MISC. LAND APPLICATION NO. 24 OF 2021**) for an extension of time to file an application for leave to appeal to the court of Appeal out of time.

During hearing, the applicant appeared under the service of the learned Counsel Mr Kalonga while the respondents appeared unrepresented.

The applicant Counsel in his submission briefly submitted that the applicant is seeking for an order for extension of time to file an application for leave to appeal against the decision of this court. The applicant briefly argued that the applicant have indicated his reasons for the delay in his affidavit under paragraph 3,4,5,6 and 7. The applicant Counsel averred the delay was due to the fact that applicant was supplied with the documents late.

In response, the respondents had nothing to add apart from praying this court to make decision as it deems fit. I have considerably perused the application supported by an affidavit. I have also keenly considered the submissions in line with documents to determine an issue that is; whether this application has merit or not. The main issue to be determined is whether the applicant has advanced sufficient reasons for this court to consider his application for an extension of time to file an application for leave out of time. In other words, the question to be determined is whether the applicant has properly moved this court in his application and whether there are any good causes for his delay or not. It is trite 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”.*

In answering the issue (enlargement of time) I have raised, 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. The court needs to consider an issue as to whether the applicant in his 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 is expected to account for cause of 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;

*“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 that he has advanced and presented sufficient reasons for delay and the extent of such delay in his application. 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. 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)".*

Basing on my findings, I am of considered view that this application has merit and this court finds proper the applicant to be granted an extension of time to file application for leave to appeal to the Court of Appeal out of time if he wishes to do so.

The applicant shall file his appeal within 21 days from the date of this ruling.



**A. J. MAMBI**

**JUDGE**

**25/05/2022**

Ruling delivered in Chambers this 25<sup>h</sup> day of May, 2022 in presence of both parties.

**A. J. MAMBI**  
**JUDGE**  
**25/05/2022**

Right of appeal explained.

**A. J. MAMBI**  
**JUDGE**  
**25/05/2022**