

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

MISC. Land APPLICATION NO. 50/2021

(Original land application No. 93/2019 at the District Land
and Housing Tribunal of Singida at Singida)

ANASTAZIA .A.MPINDA.....APPLICANT

**(Administrator of the Estate of late
Daniel M. Njile)**

VERSUS

PAULO NGOI.....RESPONDENT

RULING

Date of last order: 5.5.2022

Date of Ruling: 5.5.2022

A. J. Mambi, J.

This Ruling emanates from an application filed by **ANASTAZIA A. MPINDA** (referred as the applicant). In her application supported by an Affidavit the applicant filed an application (MISC. Land Application NO. 50/2021) for an application for an extension of time to file an appeal out of time. In her application that was made under Section 41(2) of the Land Disputes Court Act Cap 216, [R. E. 2019] the

applicant has prayed to this court to allow her to file an appeal out of time against the decision made by the District Land and Housing Tribunal of Singida, at Singida. The application is supported by an affidavit where the applicant has stated her reasons for her delay.

During hearing both parties appeared unrepresented. The applicant briefly submitted that she pray to adopt her affidavit which has grounds for the reasons. She argued that she relies on her document.

In response, the respondent briefly submitted that he has relies on his documents.

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. My findings will be based on determining 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.

In my considered view the main issue in this matter is whether the applicant has properly moved this court in her application and whether there are any good causes for her 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 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. This means that the court needs to consider an issue as to whether the applicant in his affidavit has 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 where the applicant is expected to account of cause for delay of every day that passes beyond the aforesaid period, length of the delay that is to show 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...”

Looking at the application before this court, the applicant in her affidavit has clearly indicated that she had sufficient reasons for their delay. My perusal from the records also show that the applicant at para 2, 3, and 4 and of her affidavit has clearly indicated good causes of her delay. In my view, these were good causes and sufficient reasons for her delay. My perusal on the applicants' document including her affidavit

in line with her submission has found that the applicant has indicated reasonable or sufficient cause to enable this court to consider and grant his 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 am not in agreement with the respondents that the applicant her failed to show sufficient reasons for her delay. I agree with the applicant that the applicant has advanced and presented sufficient reasons for delay and the extent of such delay in her application and she has also indicated that there is 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 appeal out of time.

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





A.J. MAMBI

JUDGE

05/05/2022

Ruling delivered in Chambers this 5th day of May, 2022 in presence of both parties.




A.J. MAMBI

JUDGE

05/05/2022

Right of appeal explained.




A.J. MAMBI

JUDGE

05/05/2022