

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA AT ARUSHA

MISC. LAND APPLICATION No. 53 OF 2022

(C/f Misc. Application No. 32 of 2021, in the District Land and Housing Tribunal at Arusha , Originating from Land Application No.s/103/2019 at Olorieni Ward Tribunal)

PENDO KAITILA.....APPLICANT

Vs

MEGIROO LOIVOTOKI.....RESPONDENT

RULING

Date of last Order: 4-8-2022

Date of Ruling:24-8-2022

B.K.PHILLIP,J.

This application is made under section 14(1) of the Law of Limitation Act Cap 89 R.E.2019.The applicant prays for the following orders.

- i) That this Honourable Court be pleased to extend time for the applicant to file appeal out of time in this Honourable Court.
- ii) Any other relief this Honourable Court may deem fit to grant.

The application is supported by an affidavit sworn by the applicant. The application is not contested.The learned advocate Ekaeli Michael and Advocate Ismail Sharuwa appeared for the applicant and the respondent respectively.

Mr. Michael started his submission by adopting the contents of the affidavit in support of the application .He went on submitting that the applicant had file her appeal timely, but she had to withdraw it because it had a formal defect. He prayed this application to be granted.

I have perused the affidavit in support of this application together with the annexures annexed thereto. The applicant has deponed that in 2021 she filed her appeal against the impugned decision within the time prescribed by the law vide Misc. Land Appeal No. 1 of 2021. Unfortunately, the same had formal defects, thus, she prayed before this Court to withdraw it with leave to re-file it . Her prayer was granted. The order of this Court for withdrawal of the aforesaid appeal has been annexed to the affidavit in support of this application.

The order for withdrawal of the applicant's first appeal with leave to re-file it was issued by this Court on 28th March 2020. This application was filed on 27th April 2022. In my opinion there is no inordinate delay in filing this application, bearing in mind that the applicant has filed this application through the legal Aid scheme of Tanzania Women Lawyers Association who had to seek for waiver of the payment of the Court fees. The Court's record shows that the letter for weaver of the payment of Court's fees was issued on 19th April 2022.

In addition to the above, the delay in this matter is a technical delay since the applicant filed her first appeal timely.[See the case of **Fortunatus Masha Vs William Shija and another,(1997) T.L.R. 154**]

From the foregoing, it is the finding of this Court that the applicant has adduced good reasons for the delay. Therefore, I hereby grant this application. The applicant is hereby ordered to file her appeal within twenty one days (21) from the date of this order. No order as to costs.



Dated this 24th day of August 2022


B.K.PHILLIP

JUDGE.