

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(TANGA DISTRICT REGISTRY)**

AT TANGA

MISC. LAND APPLICATION NO. 43 OF 2021

MOA PLANTATIONS & ACQUACULTURE.....APPLICANT

-VERSUS-

REGISTRAR OF TITLES MINISTRY OF LANDS, HOUSING &

HUMAN SETTLEMENTS DEVELOPMENT.....1st RESPONDENT

THE HONOURABLE ATTORNEY GENERAL.....2nd RESPONDENT

RULING

Date of Last Order: 28/02/2022

Date of Ruling: 28/02/2022

AGATHO, J.:

The applicant filed an application for extension of time to file an application for leave to appeal to the Court of Appeal of Tanzania. From the outset the said application was abridged with an application for leave to appeal to the Court of Appeal of Tanzania. While the Respondents' counsel did not object the application for extension of time to apply for leave to appeal to the Court of Appeal, the Court was of the view the application was omnibus which is improper in law. The Court scrutinized the application itself and the affidavit and heard the Respondent counsel who did not file Counter Affidavit because he

had no objection on the application for extension of time. While extension of time is discretion of the Court, the same has to be exercised judiciously and should be granted upon showing sufficient cause.

The Court upon scrutiny of the pleadings observed that the application was omnibus. But the application for extension of time to apply for leave to appeal to the Court of Appeal was backed with sufficient cause it is worthy granting. That besides the learned counsel for the Applicant's deponing in his affidavit that he was attending his sick child and he participated in the funeral of his relative which caused his delay to apply for leave to appeal to the Court of Appeal, there is an allegation of illegality that instead of the Judge writing ruling on the Preliminary Objection raised he wrote judgment and decree on appeal something worth being examined by a superior Court. The issue of illegality has been held to be a sufficient cause. And there are several decisions of the Court of Appeal on the same. These decisions include **Principal Secretary Ministry of Defence and National Service v Devran Vallambia [1992] TLR 387; Lyamuya Construction Company Ltd v Board of Registered Trustees of Young Women Christian Association of Tanzania, Civil Application**

No. 2 of 2010 CAT; and Hamis Babu Bally v The Judicial Ethics Committee and 3 Others, Civil Application No. 130/01 of 2020 (ruling given on 13th September and 4th October 2021), etc.

Turning on the second part of the application, the Applicant is applying for leave to appeal to the Court of Appeal. As stated earlier on this was an omnibus application for the sake of justice the Court is inclined to focus on first part of the application and exclude the second part. The latter part on leave to appeal to the Court of Appeal is consequently struck out.

The court thus orders:

- (1) The extension of time to apply for leave to appeal to the Court of Appeal is granted. The applicant is given 14 days to apply for leave to appeal to the Court of Appeal. The time starts to run from the date of this ruling, 28/02/2022.
- (2) The Applicant shall file a separate application for leave to appeal to the Court of Appeal. The time will start to run against the Applicant after determination of the application for leave to appeal to the Court of Appeal.

DATED at **TANGA** this 28th Day of February 2022.


U. J. AGATHO
JUDGE
28/02/2022

Date: 28/02/2022

Coram: Hon. Agatho, J

Applicant: Absent

Respondent: Rashid Mohamed, State Attorney

B/C: Deborah

JA: Ms. Husna Mwiula

Court: Ruling delivered on this 28th day of February, 2022 in absence of Applicant, and but in the presence of Rashid Mohamed, Respondent's State Attorney.


U. J. AGATHO
JUDGE
28/02/2022

Court: Right of Appeal fully explained.




U. J. AGATHO
JUDGE
28/02/2022