

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

MISC. LAND APPLICATION No. 65 OF 2022

(Originating from Civil Case No. 08/2018 of Nyakato Ward Tribunal; Arising from Land Appeal No. 112/2018 of the District Land and Housing Tribunal and Misc. Land Appeal No. 24/2021 of the High Court at Bukoba)

PASCHAL HASENT.....APPLICANT

VERSUS

PRICILLA PAULO IFUNYA.....RESPONDENT

RULING

25th August & 25th August 2022

Kilekamajenga, J.

This is the second attempt made by the applicant seeking extension of time to file an application to seek certificate on point of law to approach the Court of Appeal of Tanzania. The applicant lost his case in this Court in the judgment which was delivered on 01st October 2021. Thereafter, he did not take any initiatives to file the application for certificate on point of law until on 5th January 2022 when he filed an application for extension of time. That application was struck out hence the instant application. In this application, the applicant moved this Court by way of chamber summons made under **Section 11 (1) of the Appellate Jurisdiction Act, Cap. 141 RE 2019** and **Section 14 (1) of the Law of Limitation Act, Cap. 889 RE 2019** and **Section 47 (2) of the Land Disputes Courts Act, Cap. 216 RE 2019**.



The application is supported with an affidavit of the applicant. In the affidavit, the applicant alleged sickness to be the major reason for his delay. The parties finally appeared before this Court for hearing. Both the applicant and respondent appeared in person and they had no legal representation. The applicant insisted the ground for delay stated in the affidavit that, he was sick and attended Medical treatment at Zam Zam Hospital. As he was a layperson, his submission was clear and brief. Thereafter, he rested his case.

The respondent resisted the application arguing that the applicant, being her neighbour, never felt sick at any time after the decision of the Court. She demanded proof on whether the applicant was admitted making him impossible to lodge the appeal.

In the rejoinder submission, the applicant admitted that he was not admitted in hospital rather he stayed at his son's home which was close to the Hospital. He was therefore attending to hospital and go back home.

The major issue for determination in this application is whether the applicant had good cause to warrant this court extend time for the applicant to file an application for certification on point of law. It is an established principle of the law that, extension of time is the desecration of the Court exercisable judiciously after the applicant has advanced sufficient cause for the delay. This position is

clearly stated in the cases of **Tanga Cement Co. v. Jummanne Masangwa and Another** Civil Application No. 6 of 2001 (unreported); **Sospter Lulenga v. Republic, Criminal Appeal No. 107 of 2006**, Court of Appeal of Tanzania at Dodoma (unreported); **Aidan Chale v. Republic, Criminal Appeal No. 130 of 2003**, Court of Appeal of Tanzania at Mbeya (unreported) and **Shanti v. Hindochi and Others [1973] EA 207**.

However, there is no clear definition of what amounts to sufficient cause or good cause for extension of time. In the case of **Tanga Cement Co. v. Jummanne Masangwa and Another**, Civil Appeal No. 6 of 2001 (unreported) the court had this to say:

'This unfettered discretion of the court, however, has to be exercised judicially, and the overriding consideration is that there must be 'sufficient cause' for doing so. What amounts to sufficient cause has not been defined. From decided cases a number of factors has been taken into account, including whether or not the application was brought promptly: the absence of any valid explanation for the delay: lack of diligence on the part of the applicant.'

The court, therefore, must consider several factors as good cause for extension of time which includes the length of time spent by the applicant before filing the application. The delay should not be inordinate. The applicant should be able to account for each day of delay. The Court should consider further if there are

possibilities of success if the application is allowed. In the instant case, the applicant alleged sickness as the major reason for the delay. I am aware that, sickness may be sufficient cause for the delay and therefore may warrant extension of time. However, in the case at hand, there are doubts whether the applicant was sick. While the affidavit states that he was admitted and discharged on 09th November 2021; in his oral submission, the applicant refuted the allegation that he was admitted in hospital. He insisted that he only attended treatment while at his son's house close to the hospital. Furthermore, the documentary proof on the applicant's sickness is dated 16th November 2021; by that time, a month and 15 days had expired after the decision of the High Court was delivered. Moreover, the same documentary evidence seems to have been manufactured specifically to back – up the delay and not otherwise.

In conclusion, as the applicant is obliged to advance sufficient cause for the delay in order to warrant the court to extend time, failure to properly account the cause of delay leads to denial of extension of time. I find the applicant failed to account for each day of delay and also failed to advance sufficient cause to warrant this Honourable Court exercise its discretion on extension of time. I find the application devoid of merit and hereby dismiss it with costs. It is so ordered.

Dated at Bukoba this 25th Day of August 2022





Ntemi N. Kilekamajenga

JUDGE

25/08/2020

Court:

Ruling delivered this 25th August 2022 in the presence of the parties all present in person. Right of appeal explained.



Ntemi N. Kilekamajenga

JUDGE

25/08/2020

