

IN THE HIGH COURT OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)
AT DAR ES SALAAM

MISC. LAND APPLICATION NO. 33 OF 2021

(Originating from Land Case No. 21 of 2021 which was Dismissed on 14.6.2021 by
Hon. Mlyambina,J.)

EMMANUELFREDRICK MLAPONI ENTERPRISES BIFFA BARRAN SULE IBRAHIM MAJID AMBARI NOVAT KABOIGORA	}	t/a EMMASAI (T) GENERAL APPLICANTS
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VERSUS

ECOBANK TANZANIA LIMITED.....1st RESPONDENT

BEST GROUP TANZANIA LIMITED.....2nd RESPONDENT

RULING

MRUMA, J.

This is a ruling on preliminary objection raised by the Respondent counsel against the Applicant's application to set aside a dismissal order

issued against Land Case No. 21 of 2019 which was dismissed by this Court (Mlyambina J) for Want of prosecution on 14.6.2021.

Following the dismissal of their suit on 14.6.2021, the Applicants did on 20th July 2021 filed this application seeking restoration of their case, ie Land Case No. 21 of 2019, Counsel for Respondents filed a counter affidavit together with a notice of preliminary objection contending that the application is time barred, By consent it was ordered that the preliminary objection be argued by way of written submissions. Counsel for Respondent filed his written submissions in support of the preliminary objection but counsel for the Applicant did not file his submissions in reply even when time was enlarged by the court for him to do so.

As correctly submitted by the counsel for the Respondent time for filing the Application to set aside a dismissal is not provided for under the Civil Procedure Code. However item 4 of part III of schedule to the Law of Limitation Act, the time fixed by the Law is thirty (30) days.

As stated herein above, Land case No. 21 of 2019 was dismissed for want of prosecution on 12th May 2021 and this application was presented for filing on 20th July 2021 a period of 69 days from the time the suit was dismissed. Pursuant to the provisions of section 3(1) of the Law of

Limitation Act, any proceeding instituted after the period of limitation must be dismissed.

In view of the fact that this application was filed 69 days after the date of ^{dismissal} dismissal makes it time barred. Accordingly, Miscellaneous Civil application No. 33 of 2021 is dismissed with Costs for being time barred.




A.R.MRUMA

JUDGE

19/8/2022

19/8/2022

Coram: Hon. A. R. Mruma,J

For the Applicant

For the 1st Respondent

For the 2nd Respondent

} Absent

Cc: Delphina.

COURT:

This matter is fixed for ruling today. For reasons not communicated to court both parties are absent. I will proceed to read out the ruling as scheduled and direct that parties be notified on the ruling and its outcome.




A.R.MRUMA
JUDGE
19/8/2022

COURT:

- Ruling delivered in absence of the parties.
- Parties to be notified.




A.R.MRUMA
JUDGE
19/8/2022