

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

**MISC. LAND APPLICATION NO. 75 OF 2022**

*(Arising from Land Appeal No. 17 of 2021 of the District Land and Housing Tribunal at Bukoba and  
Originating from Civil Case No. 07 of 2020 from Butelankuzi Ward Tribunal)*

**NEPHTA PHILIPO TEGAMBWAGE.....APPLICANT**

***VERSUS***

**HYASINTH GEREMIAH.....RESPONDENT**

**RULING**

*01<sup>st</sup> September & 01<sup>st</sup> September 2022*

***Kilekamajenga, J.***

The applicant appeared before this Court seeking extension of time to file an appeal. He made the application by way of chamber summons and supported it with an affidavit stating the reasons for the delay. The application was made under section 38(1) of the Land Disputes Courts Act, Cap. 216 RE 2019. The respondent, on the other hand, filed a counter affidavit objecting the application. When the parties appeared to fend the application, the applicant who was unrepresented and a layperson informed the court that he was nursing a sick person at Kagondo Hospital after the decision of the District Land and Housing Tribunal. The respondent objected the allegation by the applicant arguing that, the applicant was represented by a counsel in the District Land and Housing



Tribunal. As a result, the applicant was not attending to the appeal but his counsel; therefore, the allegation that he was nursing a sick person has no merit.

Now, this is one of the applications in which the court is vested with powers to exercise its discretion. The court may only extend time for filing an appeal where an applicant has advanced sufficient cause for the delay. This position is well stated in the cases of **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**.

In this case, the only reason for the delay advanced by the applicant is that, he was nursing a sick person after the District Land and Housing Tribunal delivered its judgment. To bolster his argument, he attached to the application a document showing that there was sick person attending at Kagondo Hospital. Upon reading the attached documentary evidence, it leaves no doubt that, somebody by the name of Winifrida Kokuteta was attending at St. Joseph Hospital at Kagondo as an outpatient. She was not admitted to the extent of hindering the applicant from filing an appeal on time. Again, while it is not proved whether Winifrida Kokuteta was a relative of the applicant, further

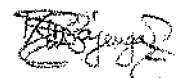


examination of the alleged receipt leaves a lot of questions than answers on whether the same receipt was issued by the Hospital. Most likely, the same receipt might have been manufactured to backup this application.

The applicant further argued that, the decision of the appellate tribunal was delivered in his absence. But, as rightly argued by the respondent, the applicant was represented by the learned advocate Samweli Kiula. Therefore, the applicant and his counsel had no excuse for not attending to the appellate tribunal on the date of judgment while the respondent attended in person. I find the applicant was negligent in following his case; his counsel also might have been negligent in following up the case something which does not amount to sufficient cause for the delay. This position is stated in the case of **Transport Equipment Ltd Versus D.P. Valambhia [1993] TLR 91 (CA)**; **Umoja Garage Versus National Bank of Commerce [1997] TLR 109 (CA)** and **Inspector Sadiki and others Versus Gerald Nkya [1997] TLR 290 (CA)**.

I understand, a delay even of a single day must be accounted for as it was stated in the case of **Bushiri Hassan v. Latifa Lukio Mashayo** where the Court of Appeal of Tanzania stated that:


*'...a day of even a single day has to be accounted for otherwise there would be no point of having rules prescribing periods withing which certain steps have to be taken.'*



In the case at hand, the record shows that, the decision of the District Land and Housing Tribunal was delivered on 22<sup>nd</sup> October 2021 and it was ready for collection on 3<sup>rd</sup> November 2021. But, the applicant lodged the instant application on 29<sup>th</sup> March 2022. Therefore, reckoning from the date when the judgment of the appellate tribunal was ready for collection to the date of filing the instant application, the applicant had delayed for almost fifty two days which have not been accounted for. Based on the reasons stated above, I hereby find no good reason advanced by the applicant to warrant this court extend time to file an appeal. I dismiss the application with costs. Order accordingly.

**DATED at BUKOBA** this 01<sup>st</sup> day of September, 2022.



  
**Ntemi N. Kilekamajenga.**  
**JUDGE**  
**01/09/2022**

**Court:**

Ruling delivered this 1<sup>st</sup> September 2022 in the presence of the parties all present in person. Right of appeal explained.



  
**Ntemi N. Kilekamajenga.**  
**JUDGE**  
**01/09/2022**

