

**THE UNITED REPUBLIC OF TANZANIA**  
**JUDICIARY**  
**THE HIGH COURT OF TANZANIA**  
**IN THE DISTRICT REGISTRY OF DODOMA**  
**AT DODOMA**  
**MISC. LAND APPLICATION NO.17 OF 2022**

*(Originating from the High Court of Tanzania at Dodoma in  
Land Appeal No. 19 of 2020)*

**RAMADHANI IYANJA.....1<sup>ST</sup> APPLICANT**

**AYUBU RAMAHANI .....2<sup>ND</sup> APPLICANT**

**VERSUS**

**MWAJABU RAMDHANI MBOIDA.....RESPONDENT**

**RULING**

*Date of last order: 30/05/2022*

*Date of Ruling: 30/05/2022*

**Mambi, J.**

This Ruling originates from an application filed by the applicants. In their application supported by an Affidavit the applicants filed an application (**MISC. LAND APPLICATION NO.17 OF 2022**) for an application to set aside dismissal order. In their application the applicants have prayed to this court to re-admit their case (Appeal No. 19 of 2020). That was

dismissed for want of prosecution. The application is supported by an affidavit where the applicants have stated their reasons.

During hearing, the matter which was ordered to be heard exparte, the applicants appeared un represented. The applicants briefly submitted that they are seeking for an order for setting aside dismissal order and their reasons for non-appearance are stated at their affidavit. The applicants averred that they have indicated their reasons for their non appearance on the hearing day in their reasons for their non – appearance on the hearing day in their joint affidavit (para 3,4,5 & 6). They submitted that on the date of hearing they were at the court but they didn't hear when their case was called by the clerk despite their effort to inform the clerk.

I have considerably perused the application supported by an affidavit. I have also keenly considered the submissions made by the applicants to find out whether this application has merit or not. The main issue to be determined is whether the applicants had advanced sufficient reasons for this court to consider their application as prayed. In other words, the question to be determined is whether the applicants have properly moved this court in their application and whether there are any good causes for this court to set aside the dismissal order made by this court. It is trite law that any party seeking for an order to set aside the dismissal order he/she is required to advance sufficient reasons in his

affidavit before the court can consider and allow such application.

In other words, in determining an application for setting aside an order of dismissal, the court has to determine if the applicant has established some material amounting sufficient cause or good cause as to why the sought application is to be granted. This means that the court need to consider an issue as to whether the applicants in their affidavit have disclosed good cause or sufficient reasons for their nonappearance. In my view, among factors to be considered by the court in an application for dismissal order, is the reason for the non-appearance and whether the non-appearance was caused or contributed by the dilatory conduct of the applicant. It should also be noted that an application for setting aside dismissal order is in discretion of the court to grant or to refuse it, and that order may only be granted where it has been sufficiently established that the non appearance was with sufficient cause. My perusal from an affidavit reveals that, the applicants in their affidavit have clearly indicated that they had sufficient reasons for their non-appearance on the hearing date. It is clear from the affidavit and other records that the applicants have clearly stated the sufficient reasons as to why he did appear on the date scheduled for hearing. Similarly, The Court in **TANGA CEMENT AND ANOTHER CIVIL APPLICATION NO. 6 OF 2001** clearly held that:-

*“What amounts to sufficient cause has not been defined. From decided cases a number of factors has to be taken into account including whether or not the application has been brought promptly..”*

Basing on my analysis, I agree with the applicants that they have advanced and presented sufficient reasons for this court to consider setting aside an order for dismissal that was made by this court on 9<sup>th</sup> February, 2022.


I am of the considered view that this application has merit and this court finds proper the applicants to be granted their application as prayed. In the circumstance, an order that dismissed his application No. 19 of 2020 is hereby set aside. This court orders the application No. 19 of 2020 to be re-admitted



  
**A.J. MAMBI**  
**JUDGE**  
**30/05/2022**

Ruling delivered in Chambers this 30<sup>st</sup> day of May, 2022 in presence of both parties.



  
**A.J. MAMBI**  
**JUDGE**  
**30/05/2022**

Right of appeal explained.



**A.J. MAMBI**

**JUDGE**

**30/05/2022**