

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

LAND APPLICATION NO. 34 OF 2022

(Arising from High Court of Tanzania (Bukoba Registry) in Land Reference No. 3 of 2021, Misc. Application No. 29 of 2021 and Land Application No. 197 of 2008 from the District Land and Housing Tribunal for Kayunga at Karagwe and Land Appeal No. 48 of 2019 from the Resident Magistrate Court's Extended Jurisdiction in Land Application No. 175 of 2017)

JUSTUS GERVASEAPPLICANT

VERSUS

GERVASE BAMUGIMBARESPONDENT

RULING

Date of Ruling: 02.09.2022

A.Y. Mwenda J,

This application is for extension of time to file land reference. It is brought under Order 8(1) of the Advocates Remuneration Order GN NO. 264 OF 2015 supported by the Applicant's Affidavit.

During the hearing of this application the applicant appeared in person without legal representation while the respondent hired the legal services from Mr. Raymond Laurent, learned counsel.

When invited to argue this application, Mr. Justus Gervase, the applicant, submitted that the reasons why he is applying for extension of time is that he filed Land Reference No. 3 of 2021 with a Memorandum of Reference instead of chamber summons supported by Affidavit and as a result the said Land

Reference was struck out with leave to refile. He submitted that this is the reason he filed the present application as per said order of the court.

In reply to the submission by the Applicant Mr. Raymond Laurent informed the court that he prays his counter affidavit to be adopted to form part of his oral submissions.

He submitted that they are opposing this application because the applicant did not comply with the court's order dated 08/02/2022. He stated that the applicant was directed to file amended Land Reference but instead he filed application for extension of time to file Land Reference. He said this is non compliance with the court's order and to support his argument he cited the case of MICKY GILEAD NDETURA (a minor suing through Gilead Ndetura Lembai) VS EXIM BANK (T) LIMITED COMMERCIAL CASE No. 4 OF 2014. He thus prayed this application to be dismissed and each part to bear its own costs.

Having gone through submissions by both parties the issue for determination is whether this application is meritorious.

The record of this court shows that the applicant filed Land Reference No. 3 of 2021 with the entitled Memorandum of Reference. By the order of this court the said Land Reference was struck out and the applicant was ordered to refile amended land reference. As stated above in the present application, the applicant is seeking extension of time to file land reference. This is against the court's order as the applicant was only required to file ammended land

reference and not an application for extension of time. It is also important to note that there was no time frame issued within which to comply with the said order.

This court in the case of MICKY GILEAD NDETURA (a minor suing through Gilead Ndetura Lembai) vs EXIM BANK (T) LIMITED COMMERCIAL CASE No. 4 OF 2014 held that;


"In order to have an orderly flow in this ruling I will first deal with the issues regarding compliance with Court Orders. I cannot re-emphasize the importance of complying with Court Orders as done by my brother Lunda J. (as then he was) in the Tanzania Breweries Limited Case (supra) that Court order should be respected and complied with and that the Court should always exercise firm control over proceedings and not condone failure by a party to respect and comply with Court Orders, otherwise it will set bad precedent and invite chaos in court in the administration of justices."

In our present application, it is obvious that the order of this court issued on 08/02/2022 has not been complied with by the applicant. In this circumstance, I agree with the respondent's learned counsel that this application should be dismissed for lack of merits.

Following the above analysis, this application lacks merits and it is hereby dismissed with costs.

It is so ordered.




A.Y. Mwenda
Judge
02.09.2022

This ruling is delivered in chamber under the seal of this court in the presence of Mr. Justus Gervase the Applicant and in the absence of the respondent.




A.Y. Mwenda
Judge
02.09.2022