

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

MISC. CIVIL APPLICATION No. 39 OF 2022

*(Arising from the decision of Bukoba District Court Misc. Civil Case No. 16 of 2021 and
Originating Civil Case No. 07 of 2018 of Kishanje primary Court)*

SOTEL SOSTENES & ANOTHER.....APPLICANTS
VERSUS
CHARLES FULGENCE & ANOTHER.....RESPONDENTS

RULING

06th October & 06th October 2022


Kilekamajenga, J.

Before this court, the applicants, Sotel Sostenes and Audax Vicent moved the Court with an application for extension of time to challenge the decision of the District Court of Bukoba in Misc. Civil Application No. 16 of 2021. As usual, the application was made by way of chamber summons supported with the applicants' joint affidavit. The application was made under **section 25 (1) (b) of the Magistrates' Courts Act, Cap. 11 RE 2019** and **section 14 of the Law of Limitation Act, Cap. 89 RE 2019**. When the application came for hearing before this Court, the first applicant simply blamed the first respondent for using court processes to steal their land. He also blamed the District Court for failing to call the original case file from Kishanje Primary Court leading to the delay in filing the appeal. On his part, the 2nd applicant also threw the burden to the District Court for failure to call the original records from the Primary Court.



The respondent's response was just simple; he simply objected the application as the applicants failed to appeal on time. When rejoining, the first applicant reiterated his prayer to allow the application as they were delayed by court processes.

The disposition of this application needs a brief backdrop of the dispute that led to the instant application. In 2018, the first respondent had a case at Kishanje Primary Court on administration of estate. In that case, the applicants were not parties and the first respondent claimed to be the lawful heir of the land left by his grandfather who died years ago. It seems, the applicants were occupying the land which was left by the respondent's grandfather. The matter went up to the District Court and thereafter there was no appeal. Sometimes later, the first respondent executed the decision of the District Court hence the execution process awakened the applicants who rushed to the District Court of Bukoba and filed Miscellaneous Civil Application No. 16 of 2021. The applicants moved the District Court of Bukoba to call and examine the records of Kishanje Primary Court in Civil Case No. 07 of 2018 to satisfy whether there was a case against the applicants. They also prayed to stay the execution process. The District Court delivered a ruling on 22/10/2021 stating that the execution was done on 05/07/2021 and therefore the order to stay the execution would be redundant. As a result, the Application No. 16 of 2021 was dismissed. The applicants, being unhappy with the decision of the District Court in Misc. Application No. 16 of



2021, they appealed to this Court vide, (PC) Civil Appeal No. 18 of 2021. Later, the applicants decided to withdraw the appeal and filed the instant application.

I am aware, the application for extension of time is a discretion of the Court. However, the discretion may be exercised where there is good reason to warrant extension of time or where the case has merit. It may be wastage of the applicants' time and resources to grant extension of time to a case which may not assist the parties in seeking their rights. In this case, the applicants are seeking extension of time to challenge the decision of the District Court in Misc. Civil Application No. 16 of 2021 which is not beneficial to them. The extension of time, if necessary, could possibly be made against the decision of Kishanje Primary Court in Civil Case No. 07 of 2018 which ended in the District Court.

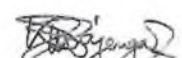
In my view, the applicants do not know the right path in seeking their rights and extension of time in this application will not assist them. I find no better reason for extending time and I hereby dismiss the application with costs. It is so ordered.



Ntemi N. Kilekamajenga

JUDGE

06/10/2022



Court:

Ruling delivered this 06th October 2022 in the presence of the applicants and the first respondent but in absence of the second respondent. Right of appeal explained.




Ntemi N. Kilekamajenga
JUDGE
06/10/2022

