

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

LAND APPLICATION NO. 71 OF 2022

(Arising from the High Court of Tanzania (Bukoba District Registry) at Bukoba in Land Case Application No. 49 of 2021 and original Land Application No. 138 of 2017 from the District Land and Housing Tribunal for Kagera at Bukoba)

SINANI HUSSEIN APPLICANT

VERSUS

NAZIFA IBRAHIM RESPONDENT

EXPARTE RULING

Date of Ruling: 21. 10.2022

A.Y. Mwenda J,

The applicant has lodged this application which is brought under section 41 (1) of the Land Dispute Court Act, [Cap. 216 R.E 2019]. The Order sought is extension of time to file an appeal out of time against the judgment and decree passed by the District Land and Housing Tribunal for Kagera at Bukoba on 24th September 2020 in Land Application No. 138 of 2017. This application is supported by an affidavit deposed by Sinani Hussein. (The applicant)

At the hearing of this application, this court, being satisfied on the proof of service against the respondent, who opted to default appearance, ordered the hearing to proceed exparte against her (the respondent).

At the outset the applicant who appeared in person prayed the content of his affidavit to be adopted to form part of his oral submissions. He then begun submitting that following the decision of the District Land and Housing Tribunal in Land Application No. 138 of 2017 which aggrieved him, he applied for a copy judgment and decree and upon receipt he noted some discrepancies. He submitted that following such discovery, he went back to the District Land and Housing Tribunal for corrections purpose but there at the Hon. Chairman refused to correct the said decree until when he wrote a complaint letter to the Registrar of Titles for his interventions.

He said the delay was not caused by him rather by the Tribunal. To support this argument, he cited the case of YARA TANZANIA LIMITED VS DB SHAPRIYA & CO. LTD, CIVIL APPLICATION NO. 498/16 OF 2016 CAT (Unreported) and the case of A.G VS AHMAD R. YAKUTI & 2 OTHERS, CIVIL APPEAL No. 49 of 2004.

According to him, he has advanced sufficient reasons for the delay and to support his argument he cited the case of RUTAGATINA C.L VS THE ADVOCATE COMMITTEE & CLAVERY MTINDO NGALEPA, CIVIL APPLICATION No. 98 of 2010 CAT (Unreported) and the LEOPARD MUTEMBEI VS LAMECK AIRO, MISC. LAND APPLICATION NO. 206 OF 2013. He then concluded his submissions praying this application to be allowed.

Having gone through the applicant's submissions the issue for determination is whether he advanced sufficient reasons for delay.

It is trite Law that this court has discretion to grant or refuse applications for extension of time. However, such discretion has to be exercised judiciously. The guiding principle in granting extension of time poses among other things, a duty to the applicant to demonstrate sufficient reasons or good cause for delay.

In the present application, the applicant submitted that the delay to lodge his appeal in time was due to failure by the Hon. Chairman to make correction on the defective decree timely.

I have gone through the court's records as well as applicant's affidavit and noted that the applicant collected the corrected decree on 1st June 2022 but filed the present application on 10th June 2022. However, he failed to advance reasons which delayed him in filing the present application on 10th June 2022 while he received the records on 1st June 2022. By simple mathematics there is 9 days delay which the applicant failed to account for.

It is trite principle that the applicant should account for each and every day of delay. This principle has been propounded in various authorities of this Court and the Court of Appeal. In the case of BUSHIRI HASSAN V. LATIFA LUKIO MASHAYO, CIVIL APPLICATION NO. 3 OF 2007 Court held inter alia that;

"Delay of even a single day, has to be accounted for otherwise there would be no point of having rules prescribing periods within which certain steps have to be taken".

Guided by the above position, the applicant failed to advance sufficient reasons for his 9 days delay to file this application.

From the foregoing reasons I hereby dismiss this application, and there is no order as to costs.

It is so ordered.




A.Y. Mwenda

Judge

21.10.2022

This Ruling is delivered in chamber under the Seal of this Court in the presence of Mr. Sinani Hussein the applicant.




A.Y. Mwenda

Judge

21.10.2022