

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

ARUSHA DISTRICT REGISTRY

AT ARUSHA

MISC. LAND APPLICATION NO. 42 OF 2022

(C/F High Court of Tanzania Land Appeal No. 11 of 2015, from the District Land and Housing Tribunal for Manyara Region at Babati Application No. 9 of 2014)

ELIAZARI HOTI..... APPLICANT

VERSUS

AYAMANGO VILLAGE COUNCIL.....RESPONDENT

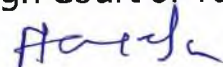
RULING

17/10/2022 & 19/10/2022

MWASEBA, J.

The applicant herein, **Eliazari Hoti**, is praying before this honourable court for the following orders:

- i) That, this Honourable Court may be pleased to grant leave to the Applicant to appeal to the court of Appeal of Tanzania against the whole of the Judgment and Decree of High Court of Tanzania,



Land Appeal No. 11 of 2015 delivered at Arusha by her Ladyship F. Massengi, Judge on 22nd September, 2015.

- ii) Costs of the application to be in the cause
- iii) Any other relief/order as this Honourable Court deems fit to grant.

The application is supported by an affidavit sworn by Mr John Shirima, Learned Counsel for the applicant.

When the application was called for hearing on 17/10/2022, Mr John Shirima, Learned Counsel represented the applicant whereas Mr Peter Musetti, Learned Senior State Attorney appeared for the respondent. The application was argued orally.

In their affidavit supporting the application it was deponed that, being aggrieved by the decision of Hon. Massengi J in Land Appeal No. 11 of 2015 delivered on 22/09/2015, the applicant filed extension of time to file notice of appeal and leave to appeal to Court of Appeal of Tanzania. Thereafter, they filed Civil Appeal No. 298 of 2017 at the Court of Appeal of Tanzania. When the appeal was called for hearing on 24/02/2021, the Court of Appeal in *suo moto* raised the issue of certificate of delay issued by the Deputy Registrar since the time they were waiting for a certified

Handwritten signature

copy of the judgment was not excluded. The said defect led their appeal to be withdrawn with leave to refile. On 7/10/2021 the applicant applied for extension of time and leave to appeal to Court of Appeal via Misc. land Application No. 78 of 2021 and the same was delivered in his favour on 28/03/2022. Afterwards the present application was filed.

During the hearing Mr Musseti told the court that they do not object the application since the applicant was once granted leave but their appeal was struck out for technicalities.

Apart from what was deponed in his affidavit, Mr Shirima added that they have already rectified the abnormalities as ordered by the Court of Appeal and prayed to be granted leave to appeal to the Court of Appeal.

Owing to the reasons submitted herein and taking into consideration that the applicant was already granted leave to appeal to the Court of Appeal and that their appeal at the Court of Appeal was withdrawn with leave to refile and the same has not been contested. This court finds no reason not to allow the application, therefore, the application is granted as prayed. Each party shall bear its own costs.



It is so ordered.

DATED at **ARUSHA** this 19th day of October, 2022.



A handwritten signature in blue ink, appearing to read "N.R. Mwaseba", is written over the seal.

N.R. MWASEBA

JUDGE

19/10/2022