

**IN THE HIGH COURT OF TANZANIA
IN THE DISTRICT REGISTRY OF DODOMA
AT DODOMA**

MISC. LAND APPLICATION NO. 7 OF 2022

DASE JISINZA.....APPLICANT

VERSUS

SENGE GAFUMU.....RESPONDENT

(Arising from the Judgment of the High Court of Tanzania, Dodoma)

Dated 15th of November, 2021

In

Land Appeal No. 79 of 2019

RULING

31stOctober&1stNovember,2022

MDEMU, J:.

This is an application for certification of points of law to appeal to the Court of Appeal. The application which is supported by the affidavit of the Applicant intends to challenge the decision of this Court which declared the Respondent herein the lawful owner of a twenty (20) acres land located in Iyumbu Ward. When the application was set for hearing on 31st of October, 2022, the Respondent under the service of Mr. Komba, learned Advocate raised an objection that the application is time bared. Mr. Nchimbi who appeared for the Applicant, resisted the objection.

Submitting in support of the preliminary objection, Mr. Komba stated that, in terms of the law, application for certificate on points of law filed on 4th of February, 2022 from the decision delivered on 15th of December, 2021 was well beyond thirty (30) days prescribed in the law. He added that, even when the verification to the affidavit, that is 14th of January, 2022 is taken into account, yet the application is out of time. He urged me, on that note to dismiss this application.

As said, Mr. Nchimbi resisted the preliminary objection. Basing on the verification date to the affidavit, Mr. Nchimbi excluded the date of the decision that is 15th of December, 2021, thus concluded that, the application filed on 14th of January, 2022 was within time. He thus asked me to accord no value to the preliminary objection.

In terms of Rule 45 of the Court of Appeal Rules, 2009, application for certification on points of law have to be made within thirty (30) days from the date of the decision. In the instant application, the impugned decision was delivered on 15th of December, 2021. As observed by Mr. Komba, this application lodged on 4th of February, 2022 was beyond the prescripts of the law. Again, Mr. Komba said, which I agree that, the date the Applicant

deposed an affidavit is not the filing date even when it was within letters of the law. Mr. Nchimbi misapprehended the dictates of the law.

The remedy for an application filed out of time without leave of the court, is to dismiss it, as I hereby do. Each part to bear own costs.

It is so ordered



Gerson J. Mdemu

JUDGE

01/11/2022

DATED at DODOMA this 1st day of November, 2022



Gerson J. Mdemu

JUDGE

01/11/2022