

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

MUSOMA DISTRICT REGISTRY

AT MUSOMA

MISC. LAND APPLICATION NO. 40 OF 2022

**(Arising from the decision of this Court in Misc. Land Appeal No. 23
of 2021)**

BETWEEN

DALMAS JONYO APPLICANT

VERSUS

MUSA SAMSON OGONJI RESPONDENT

RULING

31st October & 8th November, 2022

M. L. KOMBA, J.

This is an application for extension of time within which to lodge an application for review out of time. The application was made by way of chamber summons made under section 14 (1) of the Law of Limitation Act [Cap 89 R.E 2019]. The chamber summons is accompanied by an affidavit sworn by applicant. The respondent filed a counter affidavit to contest the application.

A brief fact led to the present application as depicted from affidavit is as follow, the respondent herein was a part in Land Appeal No. 240 of 2019 before the District Land and Housing Tribunal for Mara at Musoma (the DLHT) which decided in favour of the respondent on 24th September,

2020. The applicant's efforts to appeal against the decision of the DLHT before this Court went in vain after his appeal dismissed for being lodged out of prescribed statutory time.

Untiring, the applicant lodged an application (Misc. Land Application No. 23 of 2021) seeking the order of this court to extend time within which he can file his appeal out of time. Unfortunately, he lost again. He therefore decided to file an application for review (Misc. Land Application No. 1 of 2022) before this court. But again, as bad luck would have, the application was struck out for being out of time.

Still determined, the applicant has now filed the present application seeking the order of this court to extend time within which he can file an application for review out of time.

In his counter affidavit, the respondent deponed that the applicant has not advanced sufficient reasons for this court to grant extension of time.

When the matter was placed for hearing before me, both parties fended for themselves, unrepresented.

When taking the floor, the applicant had no much to submit, he told this court that he failed to handle the matter within a time as he was confused

by the death of his mother who died on 17th October, 2021 and buried on 26th October, 2021 at Bugwema village.

In reply, the respondent submitted that the application should not be granted as the applicant had not utilized the time given.

Having heard submissions of parties and went through the application record, the issue for determination is whether the applicant has assigned a sufficient reason for extension of time.

It is the settled position that whenever a person seeking for extension of time, he/she has to assign a sufficient reason for the court to consider in order to grant the same. The factors constituting sufficient reason are not firmly explained or listed. They are determined basing on the circumstances of each case. However, in determining the good cause courts have been invariably taking into account various factors including length of delay involved, reasons for delay, the degree of prejudice if any that each party is likely to suffer, the conduct of the parties and the need to balance the interests of a party who has a decision in his favour against the interests of a party who has a constitutionally underpinned right of appeal. See **Jaliya Felix Rutaihwa vs Kalokora Bwasha & Another**, Civil Application No. 392/01 of 2020, CAT at Dar es Salaam, **Paradise Holiday Resort Limited vs. Theodore N. Lyimo**, Civil Application No.

435/01 of 2018, CAT at Dar Es Salaam and **Ludger Bernard Nyoni vs. National Housing Corporation**, Civil Application No. 372/01/2018, CAT at Dar Es Salaam (Unreported).

In the application at hand, the applicant sought the extension of time to lodge an application for review out of time. The application has been filed on 12th July, 2022 whilst the impugned judgment was delivered on 17th September, 2021. It is almost 13 months elapsed which the applicant has to account for.

It has been held in numerous decisions of the Court of Appeal, that in an application of the extension of time, the applicant has to account for even a single day of delay. See **Vedastus Raphael vs Mwanza City Council & 2 Others**, Civil Application No. 594/08 of 2021, CAT at Mwanza, **Omari R. Ibrahim vs Ndege Commercial Services Ltd**, Civil Application No. 83/01, CAT at Dar es salaam and **Salum Rajabu Abdul @ Usowambuzi vs The Republic**, Criminal Application No. 14/01 of 2021, CAT at Dar es salaam.

In the present application, apart from failure to account for each day of delay, there is no any other reason (s) advanced by the applicant to move this court to grant him extension of time. Looking at his supporting affidavit, the applicant has not accounted for the delayed time nor he has

deponed any reason for this court to consider in granting the extension of time. Even if I take into consideration the applicant submission that he was confused by the death of his mother which occurred on 17th October, 2021 and buried on 26th October, 2021, still the applicant left with a lot of days unaccounted.

From the above findings I find that the applicant has not demonstrated sufficient reasons for this court to grant extension of time. Consequently, I dismiss the application with costs.

It is so ordered.




M. L. KOMBA

JUDGE

8th November, 2022