

IN THE HIGH COURT OF TANZANIA

MOROGORO SUB REGISTRY

AT MOROGORO

MISC. LAND APPLICATION NO. 15 OF 2022

(Arises from Land Application No. 149 of 2019 of the District Land and
Housing Tribunal for Morogoro, at Morogoro)

HADIJA JUMA SEGUMBA

As An Administrator of the estate of

the Late HABIBA MZEE SALUM

..... **APPLICANT**

VERSUS

HASSANI OMARY.....1ST RESPONDENT

JUMANNE HAMISI 2ND RESPONDENT

R U L I N G

28th October, 2022

CHABA, J.

In this application, the applicant is seeking for an extension of time within which to file an appeal against the decision of the District Land and Housing Tribunal for Morogoro (the DLHT) in Land Application No. 149 of 2019. The application has been taken out under the provision of section 14 (1) of the Law of Limitation Act [Cap. 89 R. E. 2019] and it is supported

by an affidavit sworn by the applicant herself. On the other hand, the respondents filed a joint counter affidavit to contest the application.

Both parties appeared in persons, unrepresented and the application was disposed of by way of oral submissions.

In support of the application, the applicant highlighted that, she prays the court to enlarge the time so that she can appeal against the decision of the DLHT for Morogoro, at Morogoro on the ground that the Chairperson is the ones who delayed to supply her with the copies of judgment and other relevant documents.

In reply, the 1st respondent argued that, whether the Chairperson delayed to supply the copies of judgment and other relevant documents or not, to him it is immaterial. He added that, since there is no genuine reasons advanced by the applicant why she delayed to file her appeal, to him the applicant delayed on her own accord. The 1st respondent finally asked the court to consider the applicant's application but with great care in particular her allegations.

On his part, the 2nd respondent submitted that, the applicant must account for each day of delay and advance genuine reasons why she delayed file her appeal.

In rejoinder, the applicant insisted that, the Chairman / Chairperson is the ones to be lamed as he supplied her with the impugned copy of judgment out of time, and that he requested the Chairperson to restore her application but he refused. She therefore prayed for an extension of time so that could file her appeal against the orders of the DLHT.

I have dispassionately considered both the rival submissions advanced by the parties orally before this court and the chamber summons coupled with affidavit deposed by the applicant herself. I have further paid attention to the court record. As gleaned from the court record, there is no dispute that the applicant herein instituted a case at the DLHT for Morogoro against the respondents vide Land Application Case No. 149/2019, and the same was dismissed by the tribunal on 29/3/2021 before Honourable M. Khasim, Chairperson.

Undaunted, the applicant filed the current application. It is vital to note that Ms. Hadija is applying for enlargement of time to appeal against the said decision of the DLHT which was dismissed for want of prosecution.

Upon a close scrutiny of the tribunal's record, I noted that when the applicant filed her case before the DLHT, the matter was dismissed for want of prosecution. However, it appears that the applicant was unhappy

with the tribunal's decision and therefore in a bid to find and or seek for her rights she found herself chosen a wrong path as far as this matter is concerned. In my considered opinion, the only and one remedy which is available in the circumstance of this case, is for the applicant to lodge an application to the respective DLHT praying for restoration of her application and in case the trial tribunal will indicate unwillingness to accept or grant her prayers, then she can resort to another venue by lodging an appeal before this court.

I wish to refer to the provision of Regulation 11 of the Land Disputes Courts (The District Land and Housing Tribunal) Regulation, 2003 which provides that:

"11 (1) - On the day the application is fixed for hearing, the tribunal shall:

- (a) NA;
- (b) Where the applicant is absent without a good cause, and had received a notice of hearing or was present when the hearing date was fixed, dismiss the application for non-appearance of the applicant;
- (c) NA.

(2) A party to an application, may where he is dissatisfied with the decision of the tribunal under sub-regulation (1) (b) within 30 days **apply to have the orders set aside, and the tribunal may**

set aside its orders if it thinks fit to do so, and in case of refusal appeal to the High Court". (Emphasis is mine).

From the foregoing, and to the extent of my observation in line with the above provisions of the law, it is my finding that this application was prematurely and improperly filed before this court.

Accordingly, this application is hereby dismissed in its entirety with no order as to costs. **It is so ordered.**

DATED at MOROGORO this 28th day of October, 2022.




M. J. Chaba

Judge

28/10/2022