

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

MUSOMA DISTRICT REGISTRY

AT MUSOMA

LAND APPEAL NO. 02 OF 2022

(Arising from the Land Application No. 77 of 2021 of the District Land and Housing Tribunal for Mara at Musoma)

BETWEEN

JOHN KUBOJA SUMUNI

(As an administrator of the estate of SUMUNI KUTWI) APPELLANT

VERSUS

GIDEON CHIGANGA RESPONDENT

RULING

10th & 10th May, 2022.

A. A. MBAGWA, J.:

This ruling is in respect to the preliminary objection raised by the respondent.

The respondent filed a notice of preliminary objection to the effect that the appeal is time barred.

When the matter was called on for hearing, both appellant and respondent appeared in person, unrepresented. The respondent argued that the appeal was filed in Court beyond the prescribed time of forty five (45) days.

In response, the appellant conceded and further prayed for the mercy of the court to have his appeal heard on merits.

Upon going through the record, I have noted that the judgment sought to be impugned was delivered on 22nd October, 2021 and on 16th November, 2021, the appellant was supplied with the copy of judgment. However, according to the petition of appeal, the present appeal was filed in court on 4th January, 2022.

Section 41 (2) of the Land Disputes Courts Act provides forty five (45) days for any aggrieved party to lodge an appeal against the decision of the Tribunal. It is settled that in counting time, the period for which a party is waiting to be supplied with judgment is excluded. See section 19(2) of the Law of Limitation Act and the **Director of Public Prosecutions vs Mawazo Saliboko @ Shagi & 15 other**, Criminal Appeal No. 384 of 2017, CAT at Tabora.

Starting from 16th November, 2021 when the appellant was supplied with a copy of judgment to 4th January, 2022 when the appeal was filed is almost forty nine (49) days. Thus, it goes without saying that the present appeal was filed out of the prescribed time of forty five (45) days. The appellant

was late for four (4) days. As such, the appeal is incompetent before the court.

Consequently, I strike it out. Each party should bear its own costs.

The appellant, if is still interested to pursue the appeal, may apply for extension of time.

It is so ordered.

Right of appeal is explained.




A. A. Mbagwa

JUDGE

10/05/2022

Court: Ruling has been delivered in the presence of both appellant and respondent this 10th May, 2022.


A. A. Mbagwa

JUDGE

10/05/2022