

**THE UNITED REPUBLIC OF TANZANIA
JUDICIARY
IN THE HIGH COURT TANZANIA
AT MBEYA
MISC. LAND APPLICATION NO. 92 OF 2021**

**BAHATI GEOFREY KYANDO (Administrator of the estate of the late
GEOFREY LAITON KYANDO).....APPLICANT**

VERSUS

HENRY NYANDINDI & 21 OTHERS.....RESPONDENTS

R U L I N G

Dated: 10th & 16th February, 2022

KARAYEMAHA, J

This is an application filed by way of chamber summons supported by an affidavit of the applicant one Bahati Geofrey Kyando dated 16/11/2021. The application is brought under section 14 (1) of the Law of Limitation Act (Cap 89 R.E. 2019). In the chamber summons, the applicant prays for three prayers, to wit:

1. This Honourable Court be pleased to issue an order for extension of time to enable the applicant apply for revision against the proceedings of the District Land and Housing Tribunal (DLHT) Mbeya.
2. Any other reliefs deemed fit by the Court.
3. Costs of the application be provided.

On 10/02/2022 when this application was called on for hearing, applicant was represented by Ms. Mary Mgaya and Sr. Amelia Chalamila, learned advocates while Mr. Felix Kapinga represented the 2nd to 22nd respondent. On the other hand, the 1st respondent appeared in person, unrepresented.

Ms. Mgaya rose to address the Court and submitted that parties convened and negotiated out of court. She submitted that all respondents intimated their intention not to contest the application. For their part, Mr. Kapinga and the 1st respondent supported Ms. Mgaya's version and prayed the application to be granted.

I wish to state at the outset that, it is settled position that the discretionary powers of the Court to extend time for an application to do an act authorized by law after the expiry of the prescribed time, are exercised upon good cause being shown as provided for under section 14 (1) of the Law of Limitation Act Cap 89 R.E 2019. (See: ***Benedict Mumello v Bank of Tanzania***, Civil Appeal No. 12 of 2002 CAT, ***Juluma General Supplies Limited v Stanbic Bank Limited***, Civil Application No. 48 of 2014 and ***Omari R. Ibrahim v Ndege Commercial Services Ltd***, Civil Application No. 83/01 of 2020 (all unreported)).

I am mindful of the fact that there is no single definition of the term *'good cause'* stated in the above provision, but the Court in determining good cause, may consider all the material factors brought by the applicant for it to exercise its discretionary powers to extend time in given circumstances. In the case of ***Henry Leonard Maeda and Another v. Ms. John Anael Mongi***, Civil Application No. 31 of 2013 (unreported), it was stated that:

"In considering an application..., the courts may take into consideration; such factors as the length of delay, the reasons for the delay and the degree of prejudice that the respondent may suffer if the application is granted."

In the light of that established position, the question to be determined herein is whether or not the applicant has been able to show good cause to justify his application.

In this application, nevertheless, it has been clearly demonstrated in the affidavit supporting the chamber summons that before his demise, the deceased Geoffrey Laiton Kyando had put into motion revisional proceedings in this Court against the procedural irregularities occasioned in the proceedings of the DLHT but could not be completed. His administratrix (widow) who stepped into his shoes fell sick and has continually been under treatment the factor which made it difficult for

her to take over the pending legal process left behind by her deceased husband.

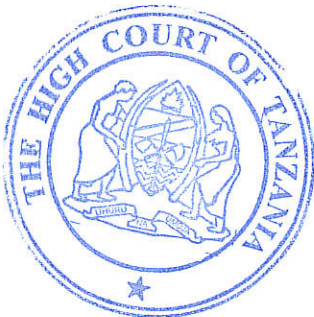
Averring further on the grounds justifying the application, the applicant raised a point of necessity of revision to the effect that the applicant was denied a right to cross – examine the 1st respondent on his admission to the claim hence denied a right to fair hearing.

In my view the applicant has shown good reasons for delay because she was not negligent or sloppy in the prosecution of the application for revision. Above all, she has shown existence of a point of law of sufficient importance, that is, the illegality of the proceedings sought to be challenged.

In view of the above discussion, this Court settles for an order that application for extension of time within which the applicant to apply for revision to challenge the proceedings of the DLHT for Mbeya is granted but without costs.

It is so ruled.

DATED at MBEYA this 16th day of February, 2022



A handwritten signature in blue ink, appearing to be 'J. M. Karayemaha', is written above a horizontal dashed line.

J. M. KARAYEMAHA

JUDGE