

**IN THE HIGH COURT OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)
AT DAR ES SALAAM
MISC. LAND APPL NO. 224 OF 2021**

(Arising from the Decision of this Court in Land Appeal No. 13 of 2013)

MARIANE GABRIEL HIZA..... APPLICANT

VERSUS

MWAJUMA SHOMARI1ST RESPONDENT

KINONDONI MUNICIPAL COUNCIL.....2ND RESPONDENT

RULING

Ruling: 3/2/2022

MASABO, J.:

Mariana Gabriel Hiza is aggrieved by the decision of this court in Land Appeal No. 13 of 2013 dated 8/9/2020. She intends to file an application for review but the time within which to lodge the review has lapsed hence this application. In her chamber summons made under section 14(1) of the Law of Limitation Act [Cap 89 R.E 2019] she is praying for an order for extension of time within which to file the review out of time. The application is supported by an affidavit of Irene Peter Swai who is identified as the Applicant's counsel in which it is deponed that, the intended review is premised on a new fact which was discovered after the lapse of 30 days within which to file the review.

The 1st respondent did not object the application. Appearing in court on 23/11/2021 through representation of Mr. Matiya Samwel, learned counsel, he informed that the court that he has no intention to contest the application. Hearing of the application as between the applicant and the 2nd respondent who had filed a counter affidavit, was scheduled to proceed in writing. The applicant filed his submission on the scheduled time. The 2nd respondent did file his reply but filed a notice of his intention not to contest the application further and a prayer for withdraw of the counter affidavit which was duly granted hence the application proceeded uncontested. In her written submission the applicant reiterated the averments in the affidavit and proceeded that a good cause upon which to grant the application has been demonstrated as the fact forming basis of the application was discovered after the lapse of the time for filing the review.

I have carefully considered the affidavit supporting this uncontested application and the submission made by the applicant. As correctly deponed by the applicant, the time within which to file a review is 30days. Section 14 (1) of the Law of Limitation Act under which this Application is preferred, vests this court with discretion to extend this time if it finds that there is a good cause

for delay. It is therefore upon the applicant to show a good cause for this court to exercise its discretion judiciously. Needless to emphasize, even in uncontested applications such as the instant one, the Applicant must prove to the satisfaction of the court that there is a good cause for delay. The major point to be determined by this court, therefore, is whether the applicant had demonstrated a good cause warranting the extension of time.

Much as there is no universal definition of what constitutes a good cause, it is trite law that a good cause may be established by considering such factors as the length of delay, ie whether or not the application has been brought promptly; whether the Applicant acted with diligence, whether the Applicant has sufficiently accounted for the days of delay (see **Regional Manager, TANROADS Kagera v Ruaha Concrete Company Limited** Civil Application No. 96 of 2007, Court of Appeal of Tanzania; **Tanga Cement Company Limited v Jummanne D. Massanga and Other**, Civil Application 6 of 2001, Court of Appeal of Tanzania and **Leornad Maeda and Another v. Ms. John Anaeli Mongi and Another**, Court of Appeal of Tanzania Civil Application No. 31 of 2013 (unreported)).

According to item 3 of part III of the Schedule to the Law of Limitation Act, the time limitation for an application for a review of a decree, judgment or

order is 30 days. The decision subject to the intended review was delivered on 8th September 2020 whereas this application was filed on 13th May 2021 which implies that the delay is for 7 good months. The applicant has assigned only one reason for delay, that is, delay in discovery of the new fact forming basis for the review. Upon a thorough scrutiny of the record, I am satisfied with the applicant's disposition that the delay was occasioned by reasons other than her negligence, dilatory conduct or apathy. Thus, there exist a good cause upon which to exercise the discretion for extension of time.

For this reason, I allow the application with no orders as to costs. The review is to be filed within 14 days after this ruling.

DATED at DAR ES SALAAM this 2nd March 2022

X 

Signed by: J.L.MASABO

J.L. MASABO

JUDGE

