

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF BUKOBA
AT BUKOBA**

MISC. LAND APPLICATION NO. 58 OF 2021

(Arising from Land Application No. 14/20, of the District Land and Housing Tribunal for Kagera at Bukoba)

JAFFARI MWANGI KAMUKULU.....APPELLANT

VERSUS

INNOCENT THADEO..... 1ST RESPONDENT

CATHBERTH SIMON.....2ND RESPONDENT

RULING

17th February & 28th February 2022

Kilekamajenga, J.

The instant application was made under **section 41 (2) of the Land Disputes Courts Acts, Cap 216 RE 2019** and any other enabling provisions of the law seeking extension of time to file an appeal. The application was accompanied with an affidavit deposed by the applicant's counsel, Mr. Victor Blasio. The application was finally scheduled for hearing. The parties prayed to dispose of the application by way of written submission. The prayer was granted and the parties consequently filed the written submissions.

In support of the application, the counsel for the applicant advanced one major reason for the delay, that, he was delayed in getting the copy of judgment and decree which could enable him to lodge the appeal on time. He submitted further that, the District Land and Housing Tribunal delivered its decision on 16th

February 2021 and he applied for the copies of judgment and decree on 23rd February 2021. The applicant, thereafter, made follow-ups of the copies of judgment and decree but the tribunal chairman travelled to Morogoro and came back on 30th April 2021. The applicant finally secured the copy of judgment but not the decree. On 17th May 2021, the applicant got the copy of decree. Moreover, the applicant, who was unable to hire the services of an advocate, approached the Tanganyika Law Society for legal aid and filed the instant application on 09th June 2021.

In response, the 2nd respondent objected the application arguing that financial constraint on the part of the applicant is not sufficient cause for the delay. The counsel for the 2nd respondent fortified his argument with the cases of **Zabitis Kawuka versus Abdul Karim (EACA), Civil Appeal No. 18 of 2937 and Kikundi Cha Nzengo Halwego versus Hosea Obedi, Misc. Civil Application No. 107 of 2021 High Court of Tanzania (unreported)**. The counsel for the 2nd respondent submitted further that, the applicant delayed to file the appeal for 22 days which have not been accounted for. He cemented the argument with the case of **Henry Muyaga versus Tanzania Telecommunication Company Ltd, Civil Application No. 8 of 2021** which was cited with approval in the case of **The Bishop Roman Catholic Diocese of Tanga versus Casmir Richard Shamkai, Civil Application No.**

507/2012 of 2017. Furthermore, the counsel objected the search for legal assistance being good reason for the delay. The counsel also hinted on the applicant's practice of trying to evade the Taxation Cause No. 110 of 2021 which was filed against him (applicant).

On his part, the 1st respondent's counsel raised several issues which were not relevant but he objected the applicant's reasons for delay.

Having considered the parties written submissions and other information contained in the court file, it is evident that the District Land and Housing Tribunal delivered its decision on 16/02/2021 but the copy of judgement was ready for collection on 30/04/2021. However, the copy of decree was available for collection on 17/05/2021. Thereafter, there are applicant's letters seeking legal assistance from the Tanganyika Law Society. I am aware, wasting time looking for legal services may not be sufficient cause for extension of time. However, an order for extension of time is the discretion entrusted to the court upon finding good reason or sufficient cause for the delay. In the instant application, the applicant did not sleep on the right to pursue his appeal. There is no shred of doubt that the copies of judgment and decree, which could enable him to file the appeal, were available when he was time barred from filing the appeal.

The only remedy available for the applicant was to apply for extension of time. As long as the applicant applied for the copies of judgment and decree, which were delayed, he had no other option of filing the appeal. In my view, the applicant advanced good reason for extension of time. This being the discretion of this court, I unreservedly allow the application. The applicant should file the appeal within 21 days from the date of this order. It is so ordered.

DATED at BUKOBA this 28th day of February, 2022.



A handwritten signature in blue ink, appearing to read "Ntemi N. Kilekamajenga".

Ntemi N. Kilekamajenga
JUDGE
28/02/2022

Court: Ruling delivered this 28/02/2022 in the absence of the parties.



A handwritten signature in blue ink, appearing to read "Ntemi N. Kilekamajenga".

Ntemi N. Kilekamajenga
JUDGE
28/02/2022