

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB REGISTRY OF KIGOMA
AT KIGOMA**

MISC. LAND APPLICATION NO. 32 OF 2022

(ORIGINATING FROM LAND APPLICATION NO 63 OF 2012 IN THE DLHT FOR KIGOMA AT KIGOMA)

ZAID JUMANNE ZAID (Administrator of estate of late

Jumanne s/o Zaid **APPLICANT**

VERSUS

PILI RAJABU ABDALLAH (Administratrix of the estate of

the late Rajabu s/o Abdallah Mbano) **RESPONDENT**

Date of the Last Order: 16/03/2023
Date of Ruling: 24/03/2023

RULING

MAGOIGA, J.

The respondent, vide Land Application No.63 of 2012 successfully sued the applicant before the District Land and Housing Tribunal for Kigoma by a judgement delivered on 24/08/2020. Aggrieved by the decision of the Tribunal, the applicant attempted several times to appeal to this court but always was met with legal snags even where extension was granted and appeal filed. Still undaunted, this is yet another trial for him to have his appeal heard by this court.

This ruling is, therefore, for an extension of time within which to file an appeal to the High Court against the decision of the District Land and Housing Tribunal in Land Application No.63 of 2012 made under the provisions of section 14(1) of the Law of Limitation Act, [Cap 89 R.E.2019




and section 41(2) of the Land Courts' Disputes Act, [Cap 216 R.E.2016].
The application is supported by an affidavit of the applicant stating the reasons why this application should be granted.

Upon being served, the respondent filed a counter affidavit stating the reasons why this application should not be granted.

When this application was called on for hearing, the applicant appeared in person and unrepresented, while the respondent had the legal services of Mr. Method R.G. Kabuguzi, learned advocate.

Arguing the application, the applicant told the court that his affidavit and reply to counter affidavit altogether be considered and this court be pleased to grant the application. The applicant added that, he being a layman, old age and person with no regular means is unaware of these complicated procedures. In the foregoing, he urged the court to grant his application.

Mr. Kabuguzi in opposing this application prayed that his counter affidavit be adopted and insisted that, he strongly oppose this application. According to Mr. Kabuguzi, the last attempt by the applicant was struck out on 22.07.2022 but this application was filed on 22.09.2022, which to the learned counsel, is inordinate delay. The learned advocate further submitted that, the applicant has exhibited negligence of the highest degree and has failed to account for each day of delay. On the foregoing



reasons, he urged this court to dismiss this application for failure to give and prove good cause with costs.

In rejoinder, the applicant denied to be negligent and submitted that the 1st application was rejected for admission out on 18/08/2022 and was advised to prepare one and was able to file this on 22nd September, 2022.

The applicant reiterated his earlier submission.

Having carefully listened and judiciously considered the circumstances which caused the applicant's last attempt when his appeal was struck out, the rivaling arguments for parties on this point, in particular, guided by the interest of justice and overring objective to attain justice in this application and the long thirsty for justice by the applicant, I am inclined to grant this application for one simple reason that despite the applicant delayed but the number of days delayed in my considered opinion and considering his age and the time he has spent so far fighting for his appeal to be heard in this court despite the objection and rejections he has met, in my absolute discretion calls for me to grant this application which I consider as an exception in the circumstances I have here. That his last appeal when struck out there was a confusion on what was the language of the court and his papers were dully admitted. Of interest of justice, he deserved direction of amending the petition of appeal rather than striking

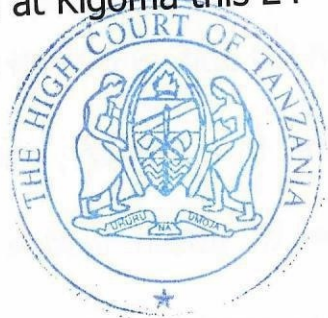


it out. On this particularity of these events, I treat the delay as an exception and proceed to grant the same.

That said and done, and without much ado, this application is granted and the applicant is given 30 days within which to file his appeal before this court. In the circumstances, each part to bear his own costs.

It is so ordered.

Dated at Kigoma this 24th day of March, 2023.



A handwritten signature in blue ink, appearing to read "S.M. Magoiga", is written over a horizontal line.

S.M. MAGOIGA
JUDGE
24/03/2023