

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**IN THE DISTRICT REGISTRY OF ARUSHA**

**AT ARUSHA**

**MISC. APPLICATION NO. 81 OF 2022**

(C/F in the District Land and Housing Tribunal at Arusha, Land Appeal No. 32 of 2021, Originated from Galapo Ward Tribunal in the Land Complaint No. 1 of 2021)

**BETWEEN**

**VERONIKA MALASWAI.....APPLICANT**

**VERSUS**

**SALIMU BUU BURA.....RESPONDENT**

**RULING**

02 & 30/05/2023

**MWASEBA, J.**

This application is made under **Section 38 (1) of the Land Dispute Court Act**, Cap 216 R.E 2019 and **Section 14 of the law of Limitation Act**, Cap 89 R.E 2019. The applicant is seeking for the following reliefs:

- 1. That, this Honourable Court be pleased to grant an order for extension of time to file application for revision out of time.*
- 2. Any other orders this Honourable Court shall deem fit to grant.*

The application was supported with an affidavit sworn by the applicant herself and strongly opposed by the respondent who filed counter affidavit sworn by himself.

During the hearing of the application, which was done by way of written submissions, both parties appeared in person, unrepresented.

Supporting the application, the applicant submitted that when the District Land and Housing Tribunal for Babati delivered its judgment she was in Dar es salaam attending her sick daughter who was admitted at Muhimbili Hospital, the act which impaired her from prosecuting appeal or revision within time. She submitted further that she was in Dar es Salaam from 16<sup>th</sup> April to 27<sup>th</sup> June, 2022 and there was no other person to help her with her child. She supported her arguments with a number of cases such as **Damari Watson Bijinja vs Innocent Sangano**, Misc. Civil Application No. 30 30 of 2021 (HC-Unreported) and **Mahamudi Ally vs Oliver Daniel (Administrator of the Estate of the late Daniel Manywili) and 3 Others**, Misc. Civil Application No. 96 of 2021. She prayed for the application to be granted as the circumstances that prevented her to pursue her legal rights was beyond her ordinary human control.

Opposing the application, firstly, the respondent prayed for his counter affidavit to be adopted and be part of his submission. He submitted that in order for this kind of application to stand there are some conditions to be met as it was stated in the case of **Lyamuya Construction Company Limited vs Board of Registered Trustees of Young Women's Christian Association of Tanzania**, Civil application No.2 of 2010. It was his further submission that the applicant was late for 30 days which was not accounted for, the impugned decision was delivered on 31/3/2022 and the present application was filed on 01/07/2022. He argued further that although the applicant alleged that she was attending her daughter but there was no proof to that. More to that, her affidavit is silent on the duration she spent to attend her sick daughter. Therefore, they are just mere words which does not constitute sufficient cause. He supported his arguments with several cases including the case of **Alkado Mairume vs Fulola Mwanakatwe**, Misc. Land Application No. 1 of 2022 (HC at Sumbawanga, Unreported).

It was his further submission that, as the sickness of her daughter was not proved the same cannot be said to be a good reason to grant the application. In the end, he prayed for the application to be dismissed with costs.

I have gone through the affidavit of the appellant and the submissions from both parties, the pertinent issue that calls for my determination is whether the applicant has demonstrated sufficient cause for her delay to file her revision within the prescribed time.

It is settled that where extension of time is sought, the applicant must demonstrate sufficient cause for the delay. Equally, it is also well settled that the sufficient cause depends on deliberation of various factors, some of which revolve around the nature of actions taken by the applicant immediately before or after becoming aware that the delay is imminent or might occur. See the case of **Karibu Textile Mills vs Commissioner General (TRA)**, Civil Application No. 192/20 of 2016 (unreported).

In the application at hand, the sole reason advanced by the applicant for delay is sickness. I am aware with the facts that sickness, when proved, is a sufficient cause upon which an application for extension of time can be granted. In this application the applicant alleged that she was attending her sick daughter so she could not manage to file her revision within the prescribed time. However, no proof was submitted to prove the said sickness and she did not state in his affidavit as to when her daughter fell sick to the date she recovered. This principle was well

settled in the case of **Shembilu Shefaya vs Omary Ally** [1992] T.L.R.  
245 that:

*"Where sickness is relied on as a reason for the delay, there must be elaborate explanation in the affidavit the extent to which sickness prevented the litigant from taking a step in Court."*

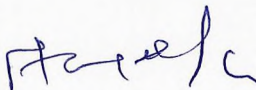
From the reason advanced by the applicant, I find that she has not shown good cause and accounted for the delay to the standard required.

In the event, I conclude that, under the circumstances pertaining to this case, the applicant has failed to illustrate good cause that would entitle her extension of time as sought. Consequently, this application is dismissed without costs as the applicant filed this application in *forma pauperis*.

It is so ordered.

**DATED at ARUSHA** this 30<sup>th</sup> day of May 2023.



  
**N.R. MWASEBA**

**JUDGE**