

THE UNITED REPUBLIC OF TANZANIA

JUDICIARY

IN THE HIGH COURT OF TANZANIA

(DISTRICT REGISTRY OF MOROGORO)

AT MOROGORO

MISC. LAND APPLICATION NO. 23 OF 2023

(Originating from Land Application No. 187 of 2017 before the District Land and Housing Tribunal for Morogoro)

ZAINABU MSHAMU..... APPLICANT

VERSUS

MANENO JUMA.....RESPONDENT

RULING

Hearing date on: 20/6/2023

Ruling date on: 21/6/2023

NGWEMBE, J:

The applicant was caught in the web of time limitation to appeal as a matter of right against the judgement and decree of district land and housing tribunal in land case No. 187 of 2017., which was delivered on 25th January, 2023. The reason for delay is contained in the affidavit in support to the chamber summons. Equally the respondent resisted the application by filing a counter affidavit.

However, on the hearing date, the applicant was represented by learned advocate Christopher Mgala while the respondent was present in person. The applicant fully relies on sickness of her child who was admitted at Morogoro Regional Referral Hospital. Thus, found herself out of time


frame to appeal to this court. The prayer in the chamber summons is only one ground, that is extension of time.

In turn the respondent, strongly objected the application that lacks merits for she delayed with no reasonable cause. Being unrepresented, he did not argue much than reliance to his counter affidavit.

I find it indispensable however, slightly to narrate what transpired between the parties as per the records of the court. This application is found from a dispute arising from ownership of a piece of land. In hearing the dispute, the applicant being the applicant in the main land case before the trial tribunal, failed to prove her case, thus the tribunal unanimously with assessors concluded that the applicant had no valid claim over the suit land. Such decision aggrieved the applicant, but was prevented to appeal within time due to her sick child of 17 years old, who underwent operations.

Notably, extension of time is a discretionally powers of the court which same is execute judiciously, meaning making decision based on sufficient reasons. This position was demonstrated by the Court of Appeal in the case of **Selina Chibango vs. Finihas Chibango, Civil Application No. 182A of 2007, CAT, Dsm (2011)** thus: -

"No particular reason or reasons have been set out as standard sufficient reasons. It all depends on the particular circumstances of each application. Each case, therefore, should be looked at in its own facts, merits and circumstances, by looking at all the circumstances of the case before arriving at the decision on whether or not sufficient reason has been shown for extension"




Generally, extension of time is granted upon the applicant's exhibition of good cause to the satisfaction of the court. That the said delay was not caused by her negligence or inaction and that by considering the circumstances of the case, it suits the spirit of justice that the applicant be granted such extra time for realising the cause she contemplates. This is synonymous to the Court of Appeal's decision in **Mumello Vs. Bank of Tanzania [2006] 1 EA 227 (CAT)** where it was *inter alia* ruled: -

"It is trite law that an application for extension of time is entirely in the discretion of the court to grant or refuse it, and that extension of time may only be granted where it has been sufficiently established that the delay was with sufficient cause."

Despite the principles above presenting "sufficient cause" as a bottom line in the cases of this nature, our courts have maintained a clear position that *sufficient cause* or *good cause* is never fixed, but an irregular sense extractable from circumstances of each case. Likewise, in the cases of **Tanga Cement Company Limited Vs. Jumanne D. Massanga and Another, Civil Application No. 6 of 2001 (unreported)** and **William Shija Vs. Fortunatus Masha [1997] TLR. 213 (CA)**, it was *inter alia* ruled that: -

"What amounts to "good cause" is not defined. It is based on the discretion of the Court which in most cases depends on the circumstances of the case which are to be determined judiciously."



In this application, the applicant through her affidavit disclosed one reason, that the delay was not caused by her negligence or inaction, but due to sickness of her child. I think, sickness is not planned and is natural, cause

by viruses or bacteria affecting human bodies. Thus, the cause is unnatural as opposed to negligence and inaction of the applicant.

I find no reason to decide otherwise than to grant the prayer for extension of time upon which, the applicant may actualize her intention to appeal against the judgement and decree of the trial tribunal. Accordingly, I hereby grant extension of time for the period of 14 days from the date of this ruling to lodge his appeal in this court.

Order accordingly.

Dated at Morogoro this 21st June, 2023



A handwritten signature in blue ink, appearing to be "P. J. Ngwembe", is written over the judge's name.

P. J. NGWEMBE

JUDGE

21/6/2023

Court: Ruling delivered at Morogoro in Chambers on this 21st day of June, 2023 in the presence of Ms. Alicia Lugakingira, Learned Advocate for Applicant and in the presence of Respondent.

A handwritten signature in blue ink, appearing to be "A. W. Mmbando", is written over the name.

Sgd: A. W. Mmbando, DR

21/06/2023