

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(IN THE SUB-REGISTRY OF MANYARA)

AT BABATI

MISC. LAND APPLICATION NO. 60 OF 2023

(Originating from Land Application No. 23 of 2014 District Land and Housing
Tribunal for Babati at Babati)

SALIMU HASSAN APPLICANT

VERSUS

HASSAN ALLY MWANAKATWE (Administrator of the estate of the late **ALLY**

HASSAN MWANAKATWE.....RESPONDENT

Date of last order: 12/2/2024

Date of Ruling: 16/2/2024

RULING

MAGOIGA, J.

The applicant filed the instant application under section 14(1) of the Law of
Limitation Act [CAP 89 R.E. 2019] (hereinafter referred to as the LLA) seeking
for the following reliefs namely;

- 1. That, the honourable court be pleased to grant an
extension of time within which the applicant can appeal
against the judgment and the decree of the District Land*



and Housing Tribunal for Babati in Land Case No. 23 of 2014.

2. Costs be in the course.

The application is being supported by an affidavit affirmed by the applicant himself. On the other hand, the respondent lodged a counter affidavit to contest the grant of this application.

The application was disposed of by way of written submissions. Both parties appeared in person and unrepresented.

In his submission in support of the application, the applicant gave background giving rise to the instant application. He argued that Land Application No. 23 of 2014 was between him and while the respondent was his father. He argued that the said matter was dismissed for want of prosecution on 11/9/2017. He argued that he was later on summoned to appear before the Tribunal to make defense without being given chance to cross examine the witnesses who had already testified contrary to the rules of natural justice.

He went on submitting that, he has been making follow up of the copy of




judgment but in vain because the chairperson who was supposed to sign them was suspended. He contended that, he had forwarded his complaints to the Registrar of the High Court but on 13/5/2022 he was informed that he has to follow legal procedure and not administrative procedures. He submitted further that there was an application for execution whereby after the said decision he lodged Land Appeal No. 1 of 2022 but which was struck out on 20/12/2022 for being incompetent.

He therefore urged the court to grant the reliefs sought since the reason stated above are above his control.

In reply, the respondent argued that the applicant has failed to advance sufficient reason for the court to exercise its discretion for extension of time. He argued that the applicant has not attached any letter written to the Tribunal requesting for the copy of the judgment and decree in respect of Land Application No. 23 of 2014.

The respondent argued in reply that, the applicant admitted on the existence of application for execution but he never bothered to challenge the legality of the decision in Land Application No. 23 of 2014.



The respondent, therefore, urged the court to dismiss the application for the applicant has failed to advance sufficient cause.

The applicant did not file rejoinder submission.

Having gone through the parties' rival submissions, the sole issue for my determination is whether the application has merits. This application has been preferred under section 14 (1) of the LLA. The said provision provides that;

*Notwithstanding the provisions of this Act, the court may, **for any reasonable or sufficient cause**, extend the period of limitation for the institution of an appeal or an application, other than an application for the execution of a decree, and an application for such extension may be made either before or after the expiry of the period of limitation prescribed for such appeal or application.*

[Emphasis added].

From the foregoing provision, before the court can exercise its discretion for extension of time, it is imperative for the applicant to show reasonable or sufficient cause. But the provision of the law quoted above does not state



what constitutes reasonable and sufficient cause. In the case of **Osward Masatu Mwizarubi vs Tanzania Fish Processing Ltd**, Civil Application No. 13 of 2010 (unreported) the Court of Appeal stated that: -

"What constitutes good cause cannot be laid down by any hard and fast rules. The term 'good cause' is a relative one and is dependent upon the party seeking extension of time to provide the relevant material in order to move the Court to exercise its discretion"

From the above referred decision, what constitutes good cause depends on the circumstance of each case. However, from decided cases, certain factors provide guidance on whether or not the applicant has shown good cause. In the case of **Lyamuya Construction Company Limited v. Board of Registered Trustees of Young Women's Christian Association of Tanzania**, Civil Application No. 2 of 2010 (Unreported) in which the Court of Appeal expounded factors to be considered in determining whether sufficient cause has been shown as follows;

"(a) The applicant must account for all the period for delay;



- (b) The delay should not be inordinate;***
- (c) The applicant must show diligence, and not apathy, negligence or sloppiness in the prosecution of the action that he intends to take; and***
- (d) If the court feels that there are other sufficient reasons, such as the existence of a point of law of sufficient importance; such as the illegality of the decision sought to be challenged".***


In the matter at hand, the applicant intends to challenge the decision in Land Application No. 23 of 2014 which was determined on 23/3/2020. I have an opportunity to go through the record and it shows the applicant last decision against him was given on 27/07/2023. The instant application was completely filed in court on 25/8/2023 almost after expiry of more than 30 days. This period of delay, in my considered opinion, is an inordinate one, therefore the applicant was not only required to advance strong reason for the delay but also was strictly required to account on each day of the delay.

In the instant matter, the reason for the delay advanced by the applicant is that he was not supplied timely with copies of judgment and decree. As rightly



as argued by the respondent and quite so in my own opinion, the applicant has not attached any letter showing if he had requested for the copies of judgment and decree from the Tribunal after the judgement nor does he state when he was supplied by the same. The applicant did not state on which dates he made follow up of the said copies. His argument that he complained to the Registrar of the High Court and he was informed on 13/5/2022 to follow legal procedures was already out of time. But looking at the time which lapsed from the date the applicant was advised by the Registrar to take legal procedures to the date the instant application was filed in court about a year and three months lapsed.

The affidavit in support of the application is silent on what transpired on each day lapsed. Therefore, it is without doubt that the applicant has failed to account on each day lapsed. In the case of **Sebastian Ndaula v. Grace Rwamafa**, Civil Application No.4 of 2014 (unreported) the Court of Appeal stated that, delay of even a single day has to be accounted for, otherwise there would be no point of having rules prescribing periods within which certain steps have to be taken.



In the circumstances I find that the applicant has not advanced sufficient cause for the delay. Consequently, the application lacks merits and it is dismissed with costs.

It is so ordered.

Dated at Babati this 16th day of February, 2024.



S. M. MAGOIGA
JUDGE
16/2/2024