

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

MISC. LAND APPLICATION NO. 114 OF 2023

RACHEL ZEPHANIA.....PLAINTIFF

VERSUS

MARY JOSEPH.....RESPONDENT

RULING

30th April & 30th April, 2024.

Kilekamajenga, J.

The applicant approached this court seeking extension of time to file revision against the decision of the District Land and Housing Tribunal in Misc. Application No. 45C of 2021. The application was supported with an affidavit deposed by the applicant. When the application came for hearing, the applicant who appeared in person and being a layperson briefly told the court that, she delayed to file the intended revision because she struggled to find an advocate to represent her. She further alleged to have encountered family problems during the trial of this matter. On the other hand, the respondent did not oppose the application because she does not know what the applicant is seeking in this whole dispute.



In determining the instant application, this court carefully read the affidavit in support of the application which raised illegality as the reason to move the court extent time to file revision. It is evident in this case that, the applicant seeks extension of time in order to file revision due to the existence of illegality in the record of the court. I wish to revisit the established principles of the law in matters of this nature. An extension of time is entirely the discretion of this court which however should be exercised judiciously after the applicant demonstrates good cause or sufficient reason for extension of time. In the case of **Tanga Cement Co. v. Jummanne Masangwa and Another**, Civil Appeal No. 6 of 2001 (unreported) the court had this to say:

'This unfettered discretion of the court, however, has to be exercised judicially, and the overriding consideration is that there must be 'sufficient cause' for doing so. What amounts to sufficient cause has not been defined. From decided cases a number of factors has been taken into account, including whether or not the application was brought promptly: the absence of any valid explanation for the delay: lack of diligence on the part of the applicant.'

As already stated, the applicant has alleged illegality as the major reason to warrant extension of time. The law is well founded on this area thus, illegality is a good reason for extension of time in order to allow the appellate court to correct

the errors in the records of the court. In the case of **Principal Secretary, Ministry of Defence and National Service Versus Devram P. Valambli**

[1992] TLR 185 the court stated that:

"We think that where, as here, the point of law at issue is the illegality of or otherwise of the decision being challenged, that is of sufficient reason" Within the meaning of Rule 8 of the Rules for extension of time. To hold otherwise would amount to permitting a decision, which in law might not exist, to stand...in our view when the point at issue is one challenging illegality of the decision being challenged, the court has a duty even if it means extending the time for the purpose, to ascertain the point and, if the alleged be established, to take appropriate measures to put the matter and the record right."

Also in the case of **VIP Engineering and Marketing Limited v. Citibank (T) LTD**, Consolidated Civil Reference Nos. 6,7 and 8 of 2006 (unreported), where the court stated that:

'It is, therefore, settled law that a claim of illegality of the challenged decision constitutes reason for extension of time under Rule 8 regardless of whether or not a reasonable explanation has been given by the applicant under the rule to account for the delay.'

See also, the cases of **Veronica Fubile v. National Insurance Corporation and Three Others**, Civil Application No. 168 of 2008 (unreported); **Citibank (T)**

Limited v. TTCL and Others, Civil Application No. 97 of 2003 (Unreported);
National Insurance Corporation of (T) LTD v. Shengena Limited, Civil
Application No. 63 of 2011.

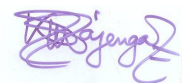
Based on this ground alone, I have no hesitation to invoke the discretion vested to this court by extending time for the applicant to file the intended revision. The applicant is given 30 days from the date of this order to file the revision. The costs of the application to follow in the course. It is so ordered.

Order accordingly.

DATED at **Mwanza** this 30th Day of April, 2024.



Ntemi N. Kilekamajenga.
JUDGE
30/04/2024



Court:

Ruling delivered this 30th Day of April 2024 in the presence of the both the applicant and respondent. Right of appeal explained to the parties.



Ntemi N. Kilekamajenga.
JUDGE
30/04/2024

