



THE JUDICIARY OF TANZANIA
IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA AT KIGOMA
(CORAM: HON. AUGUSTINE RWIZILE)

MISCELLANEOUS LAND APPLICATION NO. 22 OF 2023

ROBERT DANIFORD COMPLAINANT / APPELLANT / APPLICANT / PLAINTIFF

VERSUS

SADOCK DANIEL AND 2 OTHERS RESPONDENT / DEFENDANT

RULING

Fly Notes

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Facts

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Ratio Decidendi

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15th of April 2024

Hon. RWIZILE.:

This is an *ex parte* ruling after proof of service to the respondents who default appearance and the hearing commenced one-sided. The applicant seeks for extension of time to file his appeal against the decision in the land application No. 67 of 2021 from the District Land and Housing Tribunal of Kigoma delivered on 12.10.2022 which he was aggrieved with. Among the reasons advanced by the applicant for delay is illness. He said, upon filing his appeal, he said to have been given a control number for payment of filing fees. However, he did not manage to pay on time on the reason that he fell sick after leaving the court. He said, was admitted to the hospital on the following day and discharged on 17.12.2022. On 20.12.2023 he, said, he came back to request for a new control number but was informed that he was out of time. Soon thereafter his parent became sick, and they were taken to Arusha for treatment. He was taking care of them till when she was discharged, which was in December 2022. On 14.4.2023 it is when he filed his application for an extension of time to file his appeal.

The issue for determination is whether this application has merit. An extension of time is granted when sufficient causes are shown. The reason advanced by the applicant is illness. Illness if proved, is sufficient cause for an extension of time to file an appeal out of time, see the case of **Emmanuel R. Maira vs The District Executive Director Bunda District Council, (CAT)**, Civil Application No. 66 of 2010 at page 7, where it was stated that; -



"In my considered view, this kind of situation coupled with the undisputed incapacitation by sickness, indeed provides "good cause" for delay entitling the Applicant to the orders sought."

In the application at hand, the records show that the applicant was admitted to the hospital on 22.11.2022 one day after being supplied with a control number and was discharged on 17.12.2022. Three days later, he came to request another control number, but he was informed that he was out of time. Thereafter, his mother got sick, the documents are not clear as to when his mother was attended to and treated. The evidence reveals that when the applicant was admitted to the hospital, from 22.11.2022 to 17.12.2022 and it is when his mother got sick. Unlike the applicant, the medical chits show that her mother received treatments from 3 to 4 December 2022. This means treatment of his mother was done while the applicant was in hospital and after 13 days, the applicant also was discharged. From such records, it is crystal clear that the applicant has provided contradicting information on the sickness of his mother and therefore has failed to establish the reason for delay.

In the case of **Wambura Waryuba v. The Principal Secretary Ministry of Finance & Another.** (CAT), Civil Application No. 320/01 of 2020, on page 8, it was stated that.

"It is trite law that, in an application for extension of time, the applicant should account for each day of delay, and failure to do so would result in the dismissal of the application."

The applicant had to account for the delay from the day when the control number was generated for the second time to the time he filed this application. Further, it is on record that his discharge from the hospital was on 17.12.2022 but this application was filed on May 18, 2023, a period of almost four months, and remained unexplained or accounted for. It is, therefore, clear that this application has no merit and is dismissed with no order to costs.

Dated at KIGOMA ZONE this 15th of April 2024.

AUGUSTINE RWIZILE
JUDGE OF THE HIGH COURT

