

**IN THE HIGH COURT OF TANZANIA  
IN THE DISTRICT REGISTRY  
AT MWANZA**

**MISC.LAND APPLICATION NO. 28632 OF 2023**

*(Arising from the High Court at Mwanza Land Appeal No. 52/2023 before Hon Robert J. Originating in Land case No. 29/2022 in Chato District Land and Housing Tribunal)*

**MERY BASINGA..... APPLICANT**

**VERSUS**

**JULIANA KABAKEZA..... RESPONDENT**

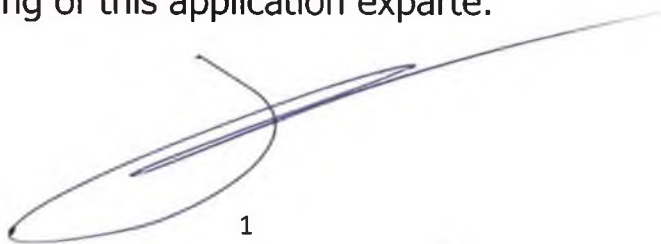
**RULING**

**21<sup>TH</sup> & 21<sup>TH</sup> .05.2024**

**A. MATUMA, J.**

In this application, the Applicant is seeking extension of time to lodge the notice of appeal to the court of appeal against the judgment and decree of this court in Land Appeal no. 52 of 2023 before honourable justice Robert.

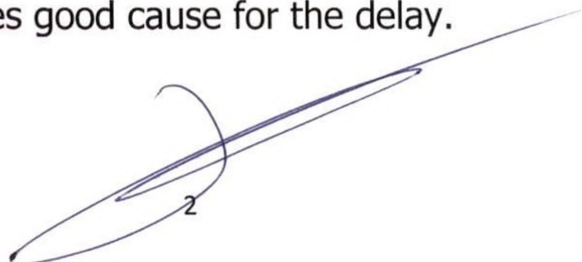
At the hearing of this application the Applicant was represented by Mr. Costantine Ramadhani learned advocate while the Respondent was absent without any notice despite the fact that she was dully served and filed her Counter affidavit through which she had also raised three points of preliminary objections. I dismissed the POs for want of prosecutions and ordered the hearing of this application exparte.



1

The learned advocate for the applicant submitted on the reasons for the delay by referring this court to paragraphs 5,6,7 and 8 of the affidavits to the effect that after the appeal was heard the same was set for judgment on 19/09/2023 but on such date the judgment was not delivered and the parties were told to go back and will be notified the next date for delivery of such judgment.

He went on that, the applicant was not notified until on the 16/12/2023 when she became aware that the judgment was already delivered. She became aware when she was served with documents of execution at Chato District Land and Housing Tribunal. This was Execution Cause No. 26 of 2023. The learned advocate further submitted that on 16/12/2023 and 17/12/2023 were Saturday and Sunday in which the applicant could not lodge the requisite application but early Monday on 18/12/2023 this application was lodged. In the circumstances, the learned advocate prayed for this application to be granted as the delay was not caused by negligence. He made reference to the case of ***Jacob Josia and 2 Others versus Rucia Joseph, Misc. Land Application no. 91 of 2023*** in which this Court at Mwanza held that if the judgment is delivered in the absence of the applicant without having been notified on the date of judgment, that constitutes good cause for the delay.

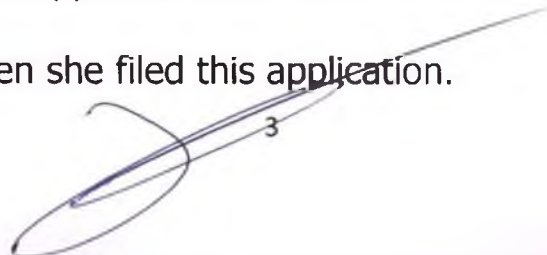


The learned advocate also submitted on the ground of illegality as deposed under paragraph 8 of the affidavit upon which extension of time has to be given. He argued that this court determined an appeal against a nullity proceeding of the trial tribunal which entertained the matter in the absence of a valid certificate from the Ward Tribunal establishing that it had failed to mediate the parties.

The learned advocate finally prayed for this application to be granted with costs.

Having heard the submission of the learned advocate for the applicant I find no good reasons to refuse granting the sought extension of time. It is on record that the impugned judgment was delivered on 22/09/2023 in the absence of the applicant and according to the affidavit such was not the earlier date set for judgment. The applicant was not notified that the impugned judgment will be delivered on such date.

In the absence of the arguments from the Respondent contradicting the affidavit of the applicant, I have no any reason to doubt that the applicant became aware of the impugned judgment on 16/12/2023. Just two days after, this application was lodged. The two days passed there between were Saturday and Sunday. Therefore, there was no any delay as from 16/12/2023 when the applicant became aware of the impugned judgment and 18/12/2023 when she filed this application.



3

The delay was thus between 22/09/2023 when the impugned judgment was delivered to 16/12/2023 when the applicant became aware of such judgment. This period has sufficiently been accounted for, because the applicant was not aware that such judgment has already been delivered. It is thus excusable as rightly argued by Mr. Costantine Ramadhani learned advocate. That being the case I find that the applicant has sufficiently accounted for each day of the delay and as such there is no need to dwell into the ground of illegality.

I therefore grant this application and extend the applicant fourteen (14) days from today within which she should lodge her requisite Notice of Appeal to the Court of Appeal of Tanzania. In the circumstances of the matter, I grant no costs to either party. It is so ordered.

**A. Matuma**  
**Judge**  
**21/05/2024**

**Court:** Ruling delivered in the presence of Mr. Costantine Ramadhani learned advocate for the Applicant and in the absence of the respondent.



**A. Matuma**  
**Judge**  
**21/05/2024**