

IN THE HIGH COURT OF TANZANIA  
(LAND DIVISION)

**AT TABORA.**

LAND APPEAL NO. 28 OF 2013

(From the Decision of the District Land and Housing Tribunal of Kigoma  
District at Kigoma. In Land Case No. 61 of 2011)

SALIM TWALIBU MAKONYORA (MINOR  
SUING THROUGH ASHURA HAMIS  
(NEXT FRIEND).....APPELLANT

VERSUS

RASHID TWALIB MAKONYORA (ADMINISTRATOR)  
OF THE ESTATE OF TWALIBU RASHID AND  
2 OTHERS .....RESPONDENT

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**RULING**

4<sup>th</sup>& 5<sup>th</sup> March, 2015

**RUMANYIKA,J.**

When the appeal against Judgment and decree of the District land and Housing Tribunal – Kigoma (DLHT) was called on for hearing, I had to here and determine a preliminary point of objection (p.o) raised by SalumTwaibMakonyola and 2 others (the respondents), that the appeal was time, barred that it be dismissed with costs.

They appear in person Mr. Musa Kassim Learned Counsel appears for the Appellant.

Submitting probably on such behalf, the 2<sup>nd</sup> Respondent stated very briefly that he received copy of the impugned decree on 22/04/2015, but the appeal was lodged on 7/8/2013.

Mr. Musa Kassim in response, submitted that indeed the appeal was within time. As the judgment was delivered on 15/04/2013, and on request by his client in writing (vide ERV No. 39161256 of 18/4/2013), was supplied with copy of the impugned judgment on 6/5/2013, and a copy of decree on 25/6/2013. Then lodged this appeal on 7/8/2013. That is about 43 (forty three) days later (two days before lapse of the limitation period of 45 days). Having one excluded the days one was waiting for the copies (S. 19 (3) of the Law of Limitation Act Cap 89 R.E. 2002).

The time as prescribed by law within which to lodge a first appeal as is the case here, is forty five (45) days of the DLHT'S impugned decision (section 38 of Cap 216 R.E. 2002. But upon the appellant receiving all the documents necessary to be appended to the appeal. The Respondents in our case do not dispute that the Appellant procured the last document on 25.06.2013 and lodged the appeal just two days before the time lapse. The p.ois on that basis dismissed. Costs to follow the events.

**S.M. RUMANYIKA**

**JUDGE**

**04/03/2015**