

IN THE HIGH COURT OF TANZANIA

(LAND DIVISION)

**AT TABORA.**

MISC. LAND CAUSE/APPLICATION NO. 66 OF 2013

(Arising from Kigoma DLHT Misc. Land application No. 5/2012  
and Original Land Dispute No. 9/2011 of Katanga Ward Tribunal)

**MAX GREGORY .....APPLICANT**

**VERSUS**

**SIMON RUDA.....RESPONDENT**

**RULING**

25<sup>th</sup> Feb. & 5<sup>th</sup> March, 2015

**RUMANYIKA, J.**

Max Gregory (the Applicant), applies through legal services of Mr. M.A Ndayanse, learned counsel, for extension of time under S. 38(1) of the Land Disputes Courts Act Cap 216 RE 2002 (the Act), within which to appeal against the decision of Kigoma District Land and Housing Tribunal (DLHT). Simon Ruda (the Respondent) appears in person.

The application is supported by affidavit of Masendeka Anania Ndayanse. Whose contents the Applicant's counsel adopted entirely at the hearing. That one should have appealed within time prescribed by law. But for late supply (say 5 months later) by the DLHT, of the copies of impugned ruling/decreed in appeal probably. Irrespective of several and

repeated follow ups. That only the DLHT was to blame. Submitted the Learned Counsel.

The Respondent on his part, submitted that any appeal now intended by the Applicant was a mere afterthought. As one should have applied for the copy much earlier as he himself (Respondent) did and got copy two (2) weeks after delivery of the ruling. Submitted the layman.

The period within which one to lodge appeal is not open ended. And on this one, I don't think that I need to cite any authorities to the effect that extension of time is granted only one having shown good cause and sufficient grounds.

Now the issue is whether late supply by the DLHT of copy of the impugned ruling was good cause and sufficient ground for extension of time to lodge a 2<sup>nd</sup> appeal. The answer is no! Infact it is legal requirement that a 2<sup>nd</sup> appeal be instituted by presenting in the DLHT only a copy of petition of appeal. No attachments like copy of judgment, ruling or decree (to mention few) is required. S. 38(1) (2) & (3) of the Act is ambiguity free:

Any party who is aggrieved by a decision...of the DLHT in exercise of its appellate...jurisdiction, may..appeal to the High Court...Every appeal to the High Court.. shall be by way of petition and shall be filed in the DLHT...upon receipt of a petition...The DLHT shall within fourteen days dispatch the petition together with the record of

proceedings in the Ward Tribunal and the DLHT  
to the High Court...(emphasis added).

The above cited Provisions of Law are in effect impari-matiria with the provisions of S. 25 (1) (b) (3) (4) of the Magistrates' Courts Act Cap 11 RE 2002. For a 2<sup>nd</sup> appeal therefore, any delays being caused by late supply by the District Court/DLHT of a copy of the impugned decision is neither here nor there. This court has so held several times and in different occasions.

Nevertheless and assuming late supply of the copies was material, courts cannot rely on plain statements. I think whenever a party so pleads as a ground for extension of time, he shall substantiate it by attaching thereto a copy of letter requesting for copy and copy of judgment so delayed. And shall state it in express terms that he needed copies for appeal purposes.

All said and done, the application falls short of good cause and sufficient grounds. It is dismissed with costs.

R/A explained.

**S.M. RUMANYIKA**

**JUDGE**

**03/03/2015**

Delivered under my hand and seal of the court in chambers this  
5/03/2015 in the presence of Mr. Ndayanse Advocate only.

**S.M. RUMANYIKA**

**JUDGE**

**05/03/2015**