

**IN THE UNITED REPUBLIC OF TANZANIA  
IN THE HIGH COURT OF TANZANIA  
(LAND DIVISION)  
AT DAR ES SALAAM**

**MISC. CIVIL APPLICATION NO. 657 OF 2016**

*(Originating from the Decision of O.Y. Mbega, the Chairperson of Morogoro District Land and Housing Tribunal in Application No. 97 of 2014, dated 02<sup>nd</sup> May 2016)*

**MAULID HASSAN.....APPLICANT**

**VERSUS**

**JUMA R. MKAMBALA.....1<sup>ST</sup> RESPONDENT**

**TOBA ABDALLAH SEBO.....2<sup>ND</sup> RESPONDENT**

**RULING**

*Date of the Ruling 27<sup>th</sup> August 2018*

**R.J. KEREFU, J**

The applicant herein filed this Application under Section 14(1) of the Law of Limitation Act, Cap. 89 [R.E. 2002] praying for extension of time to allow the applicant to lodge appeal out of time. The Application is supported by an Affidavit deposed by the applicant himself.

On the other side the 1<sup>st</sup> respondent has filed a Counter Affidavit challenging the Application. The 2<sup>nd</sup> respondent was served through a substituted service, but has never appeared.

On 27<sup>th</sup> August 2018, when the matter was called for mention, Mr. Edward Magayane, the learned Counsel appeared for the applicant and the 1<sup>st</sup> respondent appeared in person. Mr. Magayane prayed the matter to proceed exparte against the 2<sup>nd</sup> respondent.

However, before granting that prayer, the Court requested Mr. Magayane to peruse the Application and address the Court if the same is properly filed before the Court. After going through the Application Mr. Magayane informed the Court that the matter is filed under Section 14(1) of the Law of Limitation Act, (supra) instead of Section 41(2) of the of the Land Disputes Courts Act, Cap. 216,[R.E.2002]. He as such noted that the matter is incompetent before the Court.

It is on record that the decision the applicant seeks for an extension of time to challenge is from Application No. 425 of 2012 which is originating from the District Land and Housing Tribunal. The proper Section is 41(2) of the Land Disputes Courts Act, which provides that:-

*"Subject to the provisions of any law for the time being in force all appeals, revisions and similar proceedings from or in respect of any*

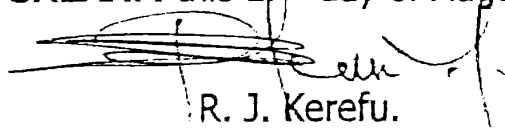
*proceedings in a District Land and Housing Tribunal in the exercise of its original jurisdiction shall be heard by the High Court.*

***41 (2) An appeal under subsection (1) may be lodged within forty five days after the date of the decision or order. Provided that, the High Court ay, for good cause, extend the time for filing an appeal either before or after the expiration of such period of forty five days” [Emphasis added].***

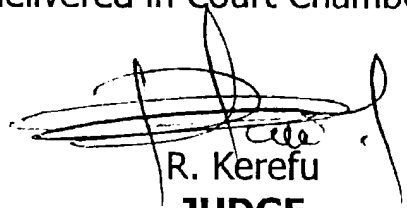
It is clear that the provision above is on the matters where the District Land and Housing Tribunal is exercising its original jurisdiction like in this matter. Therefore, it was wrong for the applicant to jump and cite a provision in the Law of Limitation Act, while the principle Act governing land dispute has such a provision.

In the event and taking into account that, the Application before this Court is incompetent, I hereby declare that, *Misc. Land Application No. 657 of 2016* is hereby struck out. I make no order as to costs. It is so ordered.

**DATED at DAR ES SALAAM** this 27<sup>th</sup> day of August 2018.

  
R. J. Kerefu.  
**JUDGE**  
27/08/2018

**COURT-** Ruling delivered in Court Chambers in the presence of the parties.

A handwritten signature in black ink, appearing to be 'R. Kerefu', is written over a horizontal line.

R. Kerefu  
**JUDGE**  
27/08/2018