

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

MISC. LAND CASE APPLICATION NO.72 OF 2019

LUCY KASOMA MAKINDA.....APPLICANT

VERSUS

ZAINA ABDALLAH MAKING'INDA.....RESPONDENT

RULING

2/9/2019 & 3/9/2019

A. MOHAMED, J:

The applicant, Lucy Kasoma Makinda, seeks for extension of time in order to lodge an appeal against the 28/11/2018 District Land and Housing Tribunal of Mkuranga's judgment and decree in Land Appeal No. 37 of 2018 (Hon. R. Mwakibuja, Chairperson).

On 28/5/2019, by consent, the Court ordered the parties to argue the application by way of written submissions on the following schedule.

1. Applicant's by 28/6/2019.
2. Respondent's by 25/7/2019/
3. Rejoinder, if any by 9/8/2019.
4. Mention on 2/9/2019

However, until 2/9/2019 when the matter came up for mention, the applicant had yet to file her submissions. Apparently, without

being served by the applicant's submission, on 19/7/2019, the respondent filed her submissions resisting the application.

In the submissions, the respondent categorically claims that the applicant intentionally desisted to file her submissions as ordered by Court in order to delay execution of the decree ensuing from Land Appeal No. 37 of 2018.

On 2/9/2019, when the application came up for mention, the applicant attributed her failure to file her submissions according to the Court's 28/5/2018 scheduling order on account of her lawyer's negligence in abiding by the order. She further averred her lawyer advised her to find another one and insisted she should appear on the mention date and inform the Court of what transpired. Eventually, she urged this Court to grant her further time to prepare and file her submissions.

On her part, the respondent vehemently resisted the applicant's reasons for the delay. She insisted the applicant is in occupation of the disputed parcel of land and only intends to delay execution of the lower tribunal's decision.

The question for determination is whether the Court can grant an extension of time to the applicant to file her submissions.

After consideration, I think the proper course of action was for the applicant to inform the Court by way of a letter before the mention date of her alleged predicament. She did not do so. This inaction leads to the Court drawing an inference of indolence. If she had furnished good reason and had presented her submissions on the

mention date, I think the Court would have had inclined in exercising its discretion and ordered otherwise.

It has been held in a catena of this Court's decisions that failure to file written submissions as ordered is akin to failure to appear on a hearing date and bears similar consequences. I accordingly find the applicant failed to file her submissions in time without good reason.

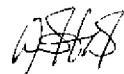
For the foregoing reasons, I find the application bereft of merit and it is dismissed with costs.

Order accordingly.



A. MOHAMED
JUDGE
3/9/2019

The right of appeal to the Court of Appeal duly explained.



A. MOHAMED
JUDGE
3/9/2019