

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
[LAND DIVISION]
AT DAR ES SALAAM**

MISC.LAND APPLICATION NO. 408 OF 2019

**ALLEN E. MVUNGI..... 1ST APPLICANT
GHUHENI G. MRAMBA..... 2ND APPLICANT**

VERSUS

IBRAHIM KOMBA RESPONDENT

RULING

S.M.MAGHIMBI, J:

By way of Chamber Summons supported by an affidavit, the applicants seek to move this Court; under the provisions of Section 11(1) of the Appellate Jurisdiction Act, Cap. 141 R.E 2002, Section 14(1) of the Law of Limitation Act, Cap. 89 R.E 2002, Section 95 of the Civil Procedure Code, Cap 33 R.E 2002 to grant them extension of time to apply for leave to appeal to the Court of Appeal against the decision this court dated 15th December 2017 in Land Appeal No. 20 of 2017. The application is supported by an affidavit sworn by the applicants on the 17th July, 2019.

On the 25/05/2020, the court ordered the application to be disposed by way of written submissions, only the applicants filed their written submissions hence this application will be determined ex-parte against the Respondent.

In their submissions to support the application, the applicants prayed for their affidavit to be adopted to form part of their submission. Their main reason moving this court to use its discretionary powers to extend time is what they alleged to be illegality committed by this honorable court, arguing that the honorable judge dismissed their appeal instead of striking it out. They argued that illegality where proven, is the good cause for extension of time. They supported their argument by citing the case of **Hassan Abdulhamid v Erasto Eliphase, Civil Application No. 402 of 2019** (unreported).

The applicants submitted further that on the principle of overriding objective, the application should be granted so that the applicants, whose rights are not sorted out should be determined. They submitted further that the chances for their application to succeed are overwhelming praying that their application be granted.

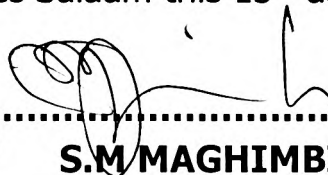
Having gone through the application and the applicants' submissions, the issue for determination is whether the applicant has adduced sufficient reasons for this court to exercise its discretionary power to grant extension of time to file leave to appeal to the Court of Appeal. The applicant relied upon the point of illegality as a good cause for extension of time, I will however not go into the details of determining whether or not there is illegality since the same is not apparent on the face of records. The only issue I have considered is that the applicants had timely filed an application for leave to appeal vide Misc. land Application No. 1132 of 2017 and the same was withdrawn on the 03/07/2019 and this application was subsequently filed on the 23/07/2019 which is only 20 days after the

application for leave was withdrawn. Since there was no inordinate delay on the part of the applicants and the respondent did not file submissions to counter the grant of this application, this application is hereby granted. Time is extended for the applicants to file their intended application which shall be filed in this court within twenty one (21) days from the date of this ruling. Costs shall follow cause

Application Allowed

Dated at Dar es Salaam this 13th day of August, 2020




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S.M MAGHIMBI
JUDGE