

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

MISC.LAND APPLICATION No. 59 OF 2019

(Arising From Land Application No. 16 of 2014)

**FATUMA MWAIMU
RAMADHANI MBWAMBO
TITO KASAMBALE
VEDASTUS CHAGULA
WINI KAYANZA**

.....**APPLICANTS**

VERSUS

ANNA WILLY LEMA.....RESPONDENT

RULING

S.M. MAGHIMBI, J.

The applicants herein filed this application under the provisions of Section 41(2) of the Land Disputes Courts Act, No. 2 of 2002 and S. 14(1) of the Law of Limitation Act Cap 89 R.E 2002 seeking extension of time to file Appeal out of time against the decision of the District Land and Housing Tribunal for Kibaha at Kibaha, in Land Application No. 16/2014. The application was supported by an affidavit of the applicants dated 28th January, 2019.

Submission in support of the application was to be filed in this court by 17th December, 2019, reply was to be filled on 08th January 2020. Up till the day of the delivery of this ruling, the respondent did not file any reply

submissions to support his preliminary objection and no reasons were adduced for the failure hence this ruling proceeds in absence of the respondent's submissions.

The Applicants, who were duly represented by Advocate Musa Mhagama, submitted that the reason for the delay was emanating from the delay or refusal to supply necessary documents needed by applicant by the tribunal. That the applicants were not supplied with copies of judgment and proceedings within time pointing out that the judgment for Land Application No.16 of 2014 was delivered on 17th October 2018 and on the same date the applicants wrote a letter requesting to be supplied with a copy of the judgment and proceeding so that they can appeal before this Hon. Court, the tribunal clerk received that letter on the same date and told the applicants to return after 21 days. After 21 days they went back and they were told that the judgment and proceeding were still on preparation. On 21st November, 2018 they managed to get only copies of the judgment and decided to wait for the copies of the proceeding until 25th January 2019 when they wrote another letter requesting to be supplied with copies of proceedings and after writing that letter they approached a lawyer for consultation and it is when they found out that they were time barred that is why they come with this application of extension of time so as to appeal out of time.

Further that the decision which the applicants want to challenge was delivered on 17th October, 2018 and the copies of the judgment was ready

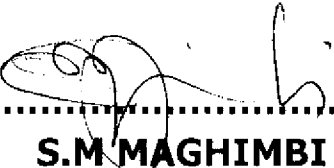
and the applicants collected them on 21th November 2018 according the applicants they decided to wait for the copies of proceedings until 25th January 2019 when they decided to write another letter requesting for the copies of the proceedings and on the same day decided to seek legal advice from an Attorney who told them that they were out of time hence on 06th February 2019 this application for extension of time was filed.

Having considered the records of this application, as per the records, the judgment of the tribunal was ready for collection on the 21/11/2018 hence the computation of time begun on the 22/11/2018. The period for appeal is 45 days hence the time to appeal ended on the 08/01/2019. The applicants have filed this application on the 05/02/2019 which is almost a month later. However, the applicants have shown on record that on 25/01/2019 they wrote another letter to the tribunal seeking to be supplied with a copy of proceedings which to them, not being conversant with the law, thought it must be obtained before the appeal was lodged. Ignorance of law may not be a good ground for extension of time, but in this case, the applicants have shown evidence that they actually sought for the copy of the proceedings at the tribunal meaning that they were not dormant was were dynamic in pursuing their rights.

Furthermore, in their affidavit, the applicants have averred that on the same 25th January, 2019 they sought for and obtained advice from the lawyer that they need not have copies of the proceedings to lodge the appeal and on 06/02/2019 the current application was filed. On my part, I am convinced with what the applicants have submitted and averred in their affidavit and the grounds have successfully moved me to use my

discretionary powers to extend time for the applicants to lodge their intended appeal which I hereby do. The intended appeal shall be lodged in this court within thirty (30) days from the date of this ruling. Costs shall follow cause in the intended appeal.

Dated at Dar es Salaam this 23rd day of April, 2020.



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S.M MAGHIMBI
JUDGE