

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

**MISC. LAND APPLICATION NO. 76 OF 2021**

**JUMA KIPANGUSI** (as the administrator of estate of late

**MWANJIA HASSAN MFAUME SONGORO .....APPLICANT**

**VERSUS**

**THE REGISTERED TRUSTEES OF**

**MASJID MWINYIMKUU .....1<sup>ST</sup> RESPONDENT**

**MOHAMED RASHID MANZI .....2<sup>ND</sup> RESPONDENT**

**R U L I N G**

*Date of Last Order: 12/08/2021*

*Date of Ruling: 22/10/2021*

**T. N. MWENEGOHA, J.**

The applicant, Juma Kipangusi as Administrator of the Estate of the Late Mwanjia Hassan Mfaume Songoro, filed this Application under Section 47(1) of the Land Disputes Courts ACT, Cap. 216 R. E. 2019, Section 95 of the Civil Procedure Code, Cap. 33 R. E. 2019 and any other enabling provision of the Law for the following order:-

1. That this Honorable Court be pleased to grant extension of time within which the applicant can make an Application to Appeal out of time;
2. Costs of this suit; and

3. Any other reliefs as the Honorable Court deems proper to grant.

The Application was supported by the Affidavit of the applicant herein and countered by the Counter Affidavit of the Mbaraka Mohamed Hassan shah, the principal Officer of the 1<sup>st</sup> respondent. 2<sup>nd</sup> respondent did not enter appearance and record in the proceeding date 16/06/2021 shows that he refused summons hence this Application was ordered to proceed exparte against him.

The Application was heard by way of Written Submissions whereby both parties filed their submission as scheduled.

The applicant was represented by Advocate Nicholus Zevros under legal assistance assigned by Tanganyika Law Society. While the 1<sup>st</sup> respondent was represented by Buruhani Mussa, Advocate.

The written submissions in support of Application, which were drawn by Clara Mramba of Verma Law revealed applicant named above is 83 years of age and although he lives in Dar es Salaam most of his agricultural activities takes place in Rufiji, Coast Region which is far from Dar es Salaam. Ms. Mramba further stated in the submission that her client has been falling sick due to his age and other related diseases as evidenced in the medical report. She mentioned the name of Hospital being Mzimuni Dispensary at Dar es Salaam. She pointed that one of the doctor remarks on 25/01/2021 was that the appellant was suffering from pains in the left leg due to injury and he was prescribed medicine for 7 days. She prayed for leave to be granted for interest of justice.

In reply Mr. Musa, submitted that the applicant has to disclose sufficient reasons for delay and that he did not specifically indicate in the affidavit how the sickness prevented him from filing documents within time. He was of the opinion that the applicant gave general claim of sickness.

Having gone through the records of this Application and the submission of both parties, the issue to consider is whether the applicant has adduced sufficient reasons to convince this Court to use its discretion power of granting this Application.

I have to admit that I am in agreement with Mr. Musa that the applicant did not give sufficient reasons to convince this Court to grant this Application. This stand is expressed in the case of **FINCA (TZ) Ltd & Another V. Boniphace Mwalukisa, Civil Application No. 586 of 12 of 2018 CAT.**

The applicant's affidavit indicated that he was sick and that's why he could not file the Application within time. He attached medical reports to that effect. I have taken trouble to go through the said medical reports. There is nowhere indicated that the applicant was admitted or given bed rest. It is also on records that he was attending Mzimuni Dispensary herein Dar es Salaam. On top of that the applicant was suffering from pains on the left leg and had to rest for seven days. From the gathered facts of the medical records submitted to this Court it is clear that the applicant was outpatient and was sick for 7 days at one particular time.

Moreover, there is no indications as to what happened to the rest of the days from 25<sup>th</sup> of November 2020 when Ruling was delivered to 15<sup>th</sup> of February 2021 when this application was made.

I expected the applicant to account for each day of his delay; this requirement has been given as one of the option to grant extension of time as held in the case of **Dar es Salaam City Council vs. Group Security CO. LTD, Civil Application No. 234 of 2015 CAT at Dar es Salaam,** where it was stated that: -

*"... the stance which this Court has consistently taken is that an application for extension of time, the applicant has to account for every day of the delay."*

The applicant has failed to show day to day efforts towards his delay, or if he was sick how his sickness prevented him from filing current Application; accounting for all those days of delay.

I also join hand with the case cited by Mr. Musa that of **Interchick Company Limited Vs. Mwaitenda Ahobokile Michael, Civil Application No. 218 of 2016** where the Court of Appeal adjudicated matter of similar circumstances whereby the applicant in that case also failed to account for each day of delay by providing general medical claims.

Having said that I find this Application to have no merits. Consequently I dismiss the application. No order as to cost.

It is so ordered.

Dated **at** Dar es salaam this **22<sup>nd</sup>** day of **October, 2021.**



  
**T. N. MWENEGOHA**  
**JUDGE**  
**22/10/2021**