

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LAND DIVISION)**

AT DAR ES SALAAM

MISC. LAND APPLICATION NO. 487 OF 2019

*(Arising from the decision of the High Court of Tanzania Land Division
(Hon. De Mello, J.) in Misc. Land Case Application No. 1033 of 2016)*

ABUBAKARI RASHID BAKARI *(An administrator of the Estate
of the late MKAMITI ABDALLAH KANDA)*..... **APPLICANT**

VERSUS

VICTORIA MOSES MWASONYA.....**1ST RESPONDENT**

ALLY ABDALLAH CHEVU.....**2ND RESPONDENT**

RULING

S.M. MAGHIMBI, J:

The applicant has lodged this application under the provisions of Section 11(1) of the Appellate Jurisdiction Act, Cap. 141 R.E 2019, Section 14 (1) of the Law of Limitation Act, Cap 89 R.E 2019 and Sections 95 of the Civil Procedure Code Cap 33 R.E 2019 (here in after The CPC) seeking for the following orders:

- a) That this Honorable Court be pleased to extend time to allow the applicant to apply for leave to appeal to the Court of Appeal of Tanzania out of time against the decision of the High Court of Tanzania (Land Division) at Dar-es-salaam, Hon. Judge De Mello, dated 05th April 2019 in Misc. Land Application No. 1033 of 2016.
- b) Costs of this application be provided for.

c) Any other order(s) this Honorable court might deem fit to grant.

This Application was supported by an Affidavit of Abubakar Rashidi Bakari, the applicant, dated 23/08/2019. On the 08/12/2020, the application was ordered to be disposed by way of written submissions. It is pertinent to note that the efforts to serve the respondents proved futile hence the determination of this application shall be ex-parte of the respondents with only the applicant's submissions on record. The submissions were drawn and filed by Mr. Twaha Tasiima, learned advocate.

Having gone through the applicant's submission and the records of this application the main issue for determination is whether sufficient reasons for the delay to apply for leave have been advanced. According to the applicant's affidavit, the deceased passed away on the 08/09/2018 (annex TLC-3) while the ruling that an extension of time appeal against is sought was delivered on the 05/04/2019, which is about 8 months after the deceased passed away. Again the records (annex TLC-1) show that the applicant herein was appointed administrator of the estate of the deceased Mkamiti Kanda on 30/05/2019 and according to the Annexure TLC-4 the applicant was informed of the existence of the dispute on 29/07/2019 and this application was lodged on 29/08/2019 which is only a month after the applicant came to the knowledge of the dispute.

From the above sequence of events, I find it to the satisfaction of this court that the applicant's delay in filing an application for leave was not inordinate, rather was for reasons beyond the applicant's control. Owing to that, I hereby exercise my discretion to extend time to the applicant to file his intended application for leave to appeal to the Court of Appeal

against the decision of this court in Misc. Land Application No. 1033 of 2016. The intended application shall be filed in this court within thirty (30) days from the date of this ruling.

Application Allowed.

Dated at Dar es Salaam this 12th of March, 2021.


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S.M. MAGHIMBI.
JUDGE.