

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

**MISC. LAND APPLICATION NO. 176 OF 2021**

(Original from misc. land case application no. 387 of 2020 ruling dated 15/03/2021 by  
Hon. V. L. Makani, J.)

**MAIMUNA ABDALLAH MPANDA ..... APPLICANT**

**VERSUS**

**TANZANIA POSTAL BANK LTD .....1<sup>ST</sup> RESPONDENT**

**HARVEST (T) LTD .....2<sup>ND</sup> RESPONDENT**

*Date of Last Order: 24/06/2021*

*Date of Ruling: 02/07/2021*

**R U L I N G**

**MWENDA, J.**

This is an Application for Leave to Appeal to the Court of Appeal. It is brought under Section 5(1) (c) of the Appellant jurisdiction Act Cap. No. 141 R. E. 2019 and it originates from Land Application No. 387 of 2020 dated 15/03/2021.

Briefly, the Applicant filed Misc. Land Application No. 387 of 2020 for extension of time to appeal against the ruling of Kinondoni District Land and Housing Tribunal in Land Application No. 500 of 2017.

Being aggrieved by the said decisions she has preferred this application seeking leave to appeal to the Court of Appeal.

During the hearing of this Application the Applicant was represented by Mr. Kyaruzi, learned advocate and the respondents were represented by Mr. Meiseyeki, learned advocate.

In his submission the advocate for the applicant averred that the Land Application No. 387/2020 was dismissed for want of prosecutions but the Applicant's failure to appear was due her being busy attending her sick father who later passed on. Despite advancing these reasons to this court they were rejected and the application was dismissed. They now intend to go to the Court of Appeal so as the following questions can be determined: -

- i. If sickness of her father and later his death are good cause; and
- ii. Whether legally the ground of delay has no merits.

The learned Advocate concluded his submission by praying for this Court to grant this application.

In response to the Applicant's submissions Mr. Meiseyeki, the learned Advocate for the respondents submitted that the Applicant have failed to advance sufficient grounds for appeal to the Court of Appeal which are points of Law for determination. Further the learned advocate submitted that even if leave is granted, there are no chances of success. He cited the case of **Haji Mosi and Anotehr vs. Omary Hillary Seif and Another, Civil Reference No. 19 of 1997 TLR, 2001**. He concluded by praying for this appeal to be dismissed.

In Land Application No. 387 of 2020 the Applicant's application to Appeal out of time was dismissed. In that application the applicant advanced reasons which delayed her to lodge her appeal in time, these reasons are

her father's illness and later his passing on. Having analyzed the said reasons this court made some findings that they are insufficient to justify delay. She intends to go to the Court of Appeal, with the same reasons for delay she had advanced in Land Application No. 383 of 2020.

It is important to note that the reasons for delay in filing an appeal in time which are intended to be tabled before the Court of appeal are the same which were analyzed and determined in Land Application No. 383 of 2020. These are points of facts which cannot be filed before the Court of appeal. It is also trite Law that an Appeal to the Court of appeal must be proceeded by Application for leave to appeal and a certificate on the point of law. In this matter there is neither Application for certificate on a point of Law nor advanced.

**In Jerome Michael vs. Joshua Okanda, Civil Appeal No. 19 of 2014 Court of Appeal of Tanzania, Mwanza** it was held that: -

*"The Appellant who wishes to access the Court of Appeal for a third time for Land dispute which originated from Ward Tribunal is required to seek from the High Court of Tanzania two orders. The first one is an order seeking for leave to Appeal....the second requirement is to get a certificate from the High Court that that a point of Law are involved".*

As rightly submitted by the Advocate for the respondents, the Applicant failed to raise any point of Law for determination by the Court of Appeal and therefore this Court find that this Application has no merits and it hereby dismissed with costs.

**DATED at DAR ES SALAAM this 02<sup>TH</sup> day of July, 2021.**



*A. Y. Mwenda*  
**A. Y. MWENDA**  
**JUDGE**  
**02/07/2021**