

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

MISC. LAND CASE APPLICATION NO.77 OF 2021

*(Arising from the District Land and Housing Tribunal for Kibaha at
Kibaha in Land Appeal No. 126 of 2018, originated from Misugusugu
Ward Tribunal in Land case No. 13 of 2017)*

SOPHIA RAMADHANI.....APPLICANT

VERSUS

MOHAMED JUMA SUDI.....RESPONDENT

RULING

Date of Last Order: 22.06.2021

Date of Ruling: 27.07.2021

OPIYO, J.

This application was brought under section 38(1) of the Land Disputes Courts Act, cap 216 R.E 2019 and section 95 of the Civil Procedure Code, Cap 33 R.E 2019. The applicant is seeking for extension of time order so as to file an application for Appeal out of time, against the decision and orders of the District Land and Housing Tribunal for Kibaha, given by Hon. S.L Mbuga, learned Chairperson in Land Appeal No.126 of 2018, dated 26th of February 2018. It has been accompanied by the affidavit of the applicant, Sophia Ramadhani. The same was not contested by the respondent as he never filed counter affidavit or appeared to contest the same. *Ex parte* hearing was conducted by way of written submissions. The applicant was represented by Advocate William Anthony Chongoma,

who insisted in his submissions that, as stated in the applicants affidavit, the reason that led into delay on part of the applicant to file her intended appeal is the fact that, she was terminally ill and was admitted at health center at Mlandizi for treatment as stated at paragraphs 7 and 8 of the affidavit in support of this application. Therefore, the sickness of the applicant is a good reason sufficient enough to make her application be allowed by this court. The applicant's counsel in cementing his arguments cited the case of **John David Kashekya versus the Attorney general, Civil Application no. 1 of 2012, Court of Appeal of Tanzania, (unreported)** which was quoted in approval in the case of **Pimak Profesyonel Muftak Limited versus Pimak Limited and Another, Misc. Commercial Application no. 55 of 2018, High Court of Tanzania Commercial Division, (unreported)**, where it was held that,

"sickness is a condition which is expected by the person who is sick, it is not a shared experience. Except for children who are not yet in a position to express their feelings. It is the sick person who can express his/her condition whether he/she has strength to move, work and do whatever kind of work he is required to do. In this regard it is the applicant who says he was sick and he produced medical chits to show that he reported to a doctor for checkup. There is no evidence from the respondent to show that after that period, his condition immediately become better and he was able to come to court and pursue his case. Under such circumstances, I do not see reasons for doubting his health condition. I find the reason of sickness given by the applicant to be sufficient reason for granting the application for extension of time".

Submission in support of the application has been dully considered. Having considered the submissions of the applicant through her respective counsel and also gone through the affidavit in support of this application, I have come to a conclusion that the instant application has merit. The applicant has managed to give a sufficient reason for her delay to file her intended appeal. That, she was prevented to pursue her appeal on time by her sickness. She submitted evidence to that effect by attaching her medical chits with her affidavit in support of this application. Therefore, the applicant has managed to give an account of the days she delayed in filing her intended appeal. As it has been already settled that, sickness of the applicant amounts to a sufficient reason capable of allowing an application for extension of time as stated in **John David Kashekya versus the Attorney general**, (supra). I find no reason therefore, to deny the applicant her right to pursue her intended appeal. I allow accordingly allow this application.

The applicant is given 14 days from the date of this ruling to present her intended appeal. No order as to costs



A handwritten signature in blue ink, appearing to be 'M.P. Opiyo', written over a horizontal line.

M.P. OPIYO.

JUDGE

27/7/2021