

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

AT DAR ES SALAAM

MISC. LAND APPLICATION NO. 625 of 2020

*(Arising from Land Application No. 31 of 2015 of District Land and
Housing Tribunal for coast Region at Kibaha)*

**AMINA ABDALLAH MLANG'AMBA.....APPLICANT
VERSUS**

HAMADI ALLY YUSUPH.....RESPONDENT

RULING

Date of last Order:

Date of Ruling: 29/11/2021.

T. N. MWENEGOHA, J:

The applicant herein have moved this court under section 41(2) of the Land Disputes Court Act, No. 2 of 2002 for the following orders: -

1. That this Honorable court be pleased to grant extension of time for the applicant to file an appeal out of time against the decision of the District Land and Housing Tribunal for coast Region at Kibaha in Land application No. 31 of 2015.
2. Any other order(s) and relief(s) this honorable court may deem fit just to grant.

The application was supported by an affidavit of the applicant herself and countered by the counter affidavit of the respondent.

The application was disposed off by way of written submission where by it was scheduled that applicant to file her submission by **08/04/2021** and reply by the respondent by 30/04/2021 and rejoinder on or before 12/05/2021.

Applicant submission was filed on 13th April 2021 contrary to the court schedule that was supposed to be filed on 8th April 2014. Respondent in his reply noted this defect and prayed for this court to dismiss the application whereas he cited different authorities to back up his objection.

In rejoinder the applicant admitted to file her submission out of time but she argued that she had a problem beyond her control and this matter, she therefore prayed to proceed for the interest of justice.

I have considered the submissions of the two parties, on non filing of submissions as scheduled and now I have to determine their merits.

As stated above that that applicant's submission was filed on 13th April 2021 contrary to the Court order that required the applicant to file his submission on 8th April 2014. Being undisputed fact it is hereby clear that the applicant filed her submission beyond court order, this act has been highly discouraged by court in different decisions including the case of FAMARI INVESTMENT (T) LTD V. ABDALLAH SELEMANI KOMBA, Civil Application No. 41/2018, where Mongela J, had this to say,

"I in fact agree with Mr. Chopa submission that failure to file Written submission on the dates scheduled by the Court is as good as non-appearing on the date fixed for hearing and need not overemphasized. The applicant and his advocate failed to seek indulgence of the court to extend the time if there were good reason for not adhering to the court orders"

The effect of filing submission beyond court orders have also been addressed in the case of HAROLD MALEKO v HENRY MWASANJALA, DC

Civil appeal No. 16/2000 (HC- MBEYA. Unreported) where Makanja J, emphasized that,

"I hold therefore that failure to file Written submission inside the time prescribed by the court was inexcusable and amounted to failure to prosecute the appeal, accordingly the appeal is dismissed with costs"

From the above authorities I find that it is justified to hold that the applicant failed to prosecute his case and thus the application is dismissed with costs.

Dated **at** Dar es Salaam this **29th** day of **October, 2021.**



T. N. MWENEGOHA,
JUDGE.