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

MISC. LAND CASE APPLICATION NO.171 OF 2018

(Arising from Land Appeal No. 50 of 2014 of 2014 before Hon. Mkwandi P.J. of the District Land Housing Tribunal of Kilosa and Mkwatani Ward Tribunal Land Case No. 44/2017)

SIJALI HUSSEIN NGONG'O (As Administratrix of the Estate of the late MFINANGA KIANGO.....APPLICANT

VERSUS

RASHID ALLY SAID..... RESPONDENT

RULING

OPIYO, J.

The applicant is seeking for an order of extension of time, under section 14 (1) of the Law of Limitation Act, cap 89 R.E 2002. That this court be pleased to extend time within which the applicant may file his appeal out of time against the judgment of the District Land and Housing Tribunal for Kilosa, delivered by Mwakwandi P.J in Land Appeal No. 50 of 2014. His application is accompanied by the Affidavit of the Applicant himself.

The respondent however objected this application owing to the fact that the application was brought under a wrong enabling provision of the law. The objection was disposed of orally and both parties appeared in person.

The gist of the objection is that due to enactment the Written Laws (Misc. Amendment Act) No.2 of 2016, the application was to be made under section 38 (1) of Cap 216 R. E 2002 and not section 14(1) of the Law of

Limitation Act, Cap 89 R.E 2002. This contention was not seriously countered, the applicant being a lay person in a way admitted to this objection and left it to the lenience of this court.

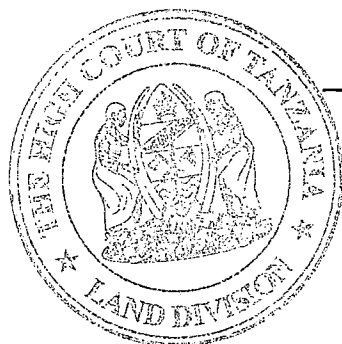
Having gone through the submissions of parties, and without much delays, I sustain this objection as it has merits. This application was supposed to be brought under section 38 (1) of the Land Disputes Courts Act, Cap 216 as a specific provision as far as extension of time for appeals arising from the Ward Tribunal are concerned. The records at hand show that this application was registered in this court on 26 March 2018 when the law has already been amended. Therefore, it was not right to invoke the application of section 14(1) of Cap 89 while there is a specific law providing for applications for extension of time in land disputes. This is the requirement of the law of Limitation itself under section 46. For easy reference I will reproduce the two provisions as here under.

38.-(1) "Any party who is aggrieved by a decision or order of the District Land and Housing Tribunal in the exercise of its appellate or revisional jurisdiction, may within sixty days after the date of the decision or order, appeal to the High Court: Provided that, the High Court may for good and sufficient cause extend the time for filing an appeal either before or after such period of sixty days has expired".

The Law of Limitation Act Cap 89 on the other hand provides;-

46. "Where a period of limitation for any proceeding is prescribed by any other written law, then, unless the contrary intention appears in such written law, and subject to the provisions of section 43, the provisions of this Act shall apply as if such period of limitation had been prescribed by this Act."

In the event, this application is struck out. No order as to costs.



M.P. OPIYO,

JUDGE

9/3/2021