

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

MISC. LAND APPLICATION NO. 89 OF 2020

(Originated from Kerege Ward Tribunal in Land Case No. 58 of 2016 arising from
Kibaha District Land and Housing Tribunal in Land Appeal No. 201 of 2016)

ANASTASIA CHACHA MANG'ERA APPLICANT

VERSUS

ZAWADI ELIREHEMA MACHUVE RESPONDENT

EXPARTE RULING

Date of Last Order: 24/11/2021

Date of Ruling: 03/12/2021

A. MSAFIRI, J

The applicant Anastazia Chacha Mang'era applies for extension of time to appeal to this Court against the decision of District Land and Housing Tribunal for Kibaha at Kibaha in Land Appeal No. 201 of 2016. The matter originates from Kerege Ward Tribunal in Land Dispute No. 58 of 2016. The Application is brought under Section 38 (1) of the Land Disputes Courts Act, Cap 216 R.E. 2002 and is supported by an affidavit sworn by the applicant herself.

The application was argued by way of written submissions and it proceeded ex-parte against the respondent after having been served through the Court process server and refused to appear in Court.

The submission by the applicant was drawn and filed by Godlove Godwin, learned advocate for the applicant who started his submission by praying to adopt the affidavit of the applicant as part of his submission. Mr. Godwin stated that the delay to file the appeal within time was caused by first; the delay of Kibaha District Land and Housing Tribunal in supplying copy of impugned judgment to the applicant, whereby the judgment was delivered on 1/10/2017, the applicant requested to be supplied with a copy of judgment with a letter of request on 23/10/2017. The said copy of judgment was availed to her on 26/2/2018. By that time she was out of time of mandatory sixty days from the date of delivery of impugned judgment.

Second, is the reason of sickness where by the applicant was extremely ill, being admitted at a hospital suffering from diabetes and High Blood pressure. That she was at some time admitted at Rabininsia Hospital Dar es Salaam undergoing medical treatment. The Hospital documents were attached as annexures to the affidavit.

Third, Mr. Godwin submitted that pursuing her right, after getting a copy of impugned judgment and as she was already out of time, the applicant filed Misc. Application No. 174 of 2018 before this Court seeking for an extension of time to appeal. That, being a layman, she was misguided and as a result,

that application was struck out for being incompetent with leave to refile. He stated that after that, the applicant again instituted Misc. Application No. 644/2019 which was also struck out on 26/02/2020 for citing wrong provisions. From there, the applicant has now filed this application which was immediately filed on 28/02/2020 assisted legally by TAWLA (Tanzania Women Lawyers Association).

Mr. Godwin stated further that the factors adduced by the applicant constitute good cause for delay and that the contested judgment was tainted with a lot of irregularities. He cited the case of **Fortunatus Masha vs. William Shija and Another** (1997) TLR 15 (CAT) to cement his arguments.

It is a settled law that a party who seeks an extension of time must give sufficient cause of delay and account for every day of delay. This has been emphasized in numerous authorities by the Court among them being the case of **Benedict Mumelo vs. Bank of Tanzania**, Civil Appeal No. 12 of 2002 whereby the Court of Appeal held that;

"It is trite law that an application for extension of time is entirely in the discretion of the Court to grant or refuse it, and that extension of time may only be granted where it has been sufficiently established that the delay was with sufficient cause".

Basing on the above authority, the issue here is whether the applicant has advanced good and sufficient cause for delay.

From the affidavit of the applicant, it is clear that she has not sat down negligently but she has been tirelessly pursuing her rights in the Court corridors.

After the delivery of impugned judgment on 17/10/2017, the applicant promptly filed a letter requesting for a copy of the said judgment on 20/10/2017. The same was availed to her on 04/3/2018. She immediately filed Misc. Application No. 174 of 2018 which was struck out for being incompetent and immediately instituted another Misc. Application No. 644/2019 which was also struck out for wrong provisions. I have considered that the applicant is a layman who was at that time unrepresented, and the fact that she was at sometime sick attending the hospital as per the hospital report attached to the affidavit.

Basing on that consideration, I am satisfied that the applicant has advanced sufficient cause for this Court to exercise its discretion and grant an extension of time as prayed.

Considering the fact that the applicant is a layman who was unrepresented but pursuing her rights, I invoke the principle of overriding objective under Article 107 A (e) of the Constitution of the United Republic of Tanzania of 1977 and Section 3A of the Civil Procedure Code Cap 33 and I hereby allow the Application.

The applicant to file her appeal within 21 days from the date of this Ruling.
Costs to be in the cause.

Order accordingly.

Dated at Dar es Salaam on 03rd December, 2021.



A. MSAFIRI.
JUDGE