

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

**LAND APPEAL NO. 266 OF 2020**

*(From the Decision of the District Land and Housing Tribunal of Ilala District at Ilala,  
in Land Application No.382 of 2016)*

**SHABANI MUHUNZI.....APPELLANT**

**VERSUS**

**MASISI NKONGO.....1<sup>ST</sup> RESPONDENT**

**CHARLES MKONO.....2<sup>ND</sup> RESPONDENT**

**JUDGMENT**

*Date of Last Order: 25.10.2021*

*Date of Judgement: 25.11.2021*

**OPIYO, J.**

The appeal is based on the following grounds:-

1. That the trial tribunal erred in law in failing to determine who is a lawful owner of the suit land between the parties per the issues for determination as framed by tribunal itself.
2. That the trial tribunal erred in law and in fact by not declaring the appellant as the lawful owner of the disputed premise as the respondent had no evidence during the hearing to prove their ownership and to oppose the ownership of the appellant.

Briefly, the appellant sued the respondents at the District Land and Housing Tribunal for Ilala District. The applicant claim against the respondent at the trial tribunal was for a declaration that he is a lawful owner of the disputed premises measuring 22 meters length and 21 meters width, located at Kigogo Fresh Area within Ilala District, Dar Es Salaam Region. He was unsuccessful before the trial tribunal; hence he lodged the instant appeal seeking to challenge the said decision of the trial tribunal.

The appeal was ordered to proceed by way of written submissions. The appellants appeared in person same was for both respondents. However, in the course of preparing this judgment, when going through the submissions of parties, particularly the reply submissions by the respondent, I came across a legal issue that touches the root of the appeal itself. The respondents in the submissions claimed that the appeal is time barred. Due to the nature of the claim, the parties were ordered to address the court on the competency of this appeal.

Based on their arguments, and the records at hand, it is apparent on the face of it that this appeal is time barred. The records show the trial tribunal delivered the impugned judgment on 19<sup>th</sup> of September, 2020; the copy of the said decision was supplied to the appellants on 23<sup>rd</sup> October 2020. This appeal was filed in this court on 18<sup>th</sup> December, 2020. That means this appeal was filled 85 days from the date of delivery of the judgment of the trial tribunal. And according to section 41(2) of the Land Dispute Courts Act, Cap 216 R.E 2019, the appellant was supposed to file his appeal within 45 days after the delivery of the judgment. Even if we

disregard the period, he used to obtain the copies of judgment and decree, still as per the records, the appellant was lodged this appeal after 48 days, meaning thereby, he is still out of 45 days required by the law.

Having so observed here in above, I proceed to strike out the appeal for being filed out of time. No order as to costs.



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**M. P. OPIYO,**

**JUDGE**

**25/11/2021**