

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

MISC. LAND CIVIL APPLICATION NO 225 OF 2019

(Arising from Land Appeal No.55 of 2014)

AGNES MATIMBWIAPPLICANT

VERSUS

ANDREFAS MATIMBWIRESPONDENT

Date of Last Order: 22.11.2021
Date of Ruling 03.12.2021

RULING

V.L. MAKANI, J

This application is by AGNES MATIMBWI. She is applying for extension of time within which to file the application for certificate on point of law involve in the Appeal No.55 of 2014 dated 08/04/2016.

The application is made under section 11(1), of the Appellate Jurisdiction Act, CAP 141 RE 2002 and section 14 of the Law of Limitation Act, CAP 89 RE 2002. The application is supported by the affidavit of the applicant. The application proceeded ex-parte against the respondent since he did not enter appearance even after being served by publication through Mwananchi Newspaper.

The application proceeded by way of written submissions. Advocate Yuaja Balankiliza drew and filed submission on behalf of the applicant.

Submitting for the application Mr. Yuaja said that the reasons for delay is that the applicant is a lay person who was not familiar with the procedure. That after being aggrieved with the decision of the appellate Tribunal she sought assistance from WILAC and it was revealed that the applicant had to collect copies of judgment. That after she got the copies of the decision, the applicant filed Land Appeal No.55 of 2014 which was dismissed for being filed out of time. That the applicant then filed application No.368 of 2017 for extension of time to appeal. The same was dismissed because the appeal had already been dismissed. Counsel insisted that the delay to appeal against Land Appeal No.55 of 2014 was not deliberate but due to the fact that the applicant is a layperson. Counsel relied on the case of **Ramadhani Nyoni vs. M/S Haule & Company Advocates [1996] T.L.R 72**. He prayed for the application to be granted.

It is a settled principle of the law that an application for extension of time is entirely the discretion of the court to grant or refuse it, and extension of time may only be granted where it has been sufficiently

established that the delay was with sufficient cause. (See **Mumello vs. Bank of Tanzania Civil Appeal No. 12 of 2002 (CAT-Dar es Salaam** (unreported).

The applicant's reasons for the delay in filing the application for certification on point of law is that she is a layperson who does not know the procedural requirements of the law.

The applicant is seeking for extension of time to file an application for certification on point of law in Land Appeal No.55 of 2014. Perusal from the records of the decision in Land Appeal No.55 of 2014 reveal that the decision was delivered on 08/04/2016. The applicant instead of filing an application for certification on point of law, she filed an application for extension of time to appeal vide Misc. Application No.368 of 2017 in which the decision was delivered on 22/12/2017. She applied for the certified copies on 16/01/2018 and in her own **Annexure AG-3** it is stated on top that she received the copies on 14/03/2018. This application was filed on 16/04/2019 which is more than 10 months from when the copies were supplied to the applicant. The period of more than 10 months has not been accounted for by the applicant. It is worthy to take in consideration that, the applicant

had legal aid services from Women's Legal Aid Centre (**WILAC**) way back in 2017, therefore the reasons of being a layperson is of no essence in circumstances. Therefore, neither being a layperson nor delay of the copy's reasons have been substantiated by the applicant. Honestly, the applicant has failed to provide sufficient reasons for her delay in filing this application.

Despite that the reasons are kind of flimsy, it is apparent that the applicant has shown efforts to file the application. In the interest of justice and considering that the application was uncontested, I hereby invoke the discretionary powers and proceed to grant the application for the applicant to file an application for certification on point of law as prayed. In other words, the application is hereby granted. The applicant shall file her application within **30 days** from the date of this ruling. There shall be no order as to costs.

It is so ordered.


V.L. MAKANI
JUDGE
03/12/2021

