

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

AT DAR ES SALAAM

MISC. LAND CASE APPLICATION NO. 252 OF 2020

HAMZA ATHUMANI MWINGWA.....APPLICANT

VERSUS

HASSANI MUSA MSAMI.....1ST RESPONDENT

MWAJUMA HUSSEIN MBELWA.....2ND RESPONDENT

RULING

Date of Last Order: 12.11.2021

Date of Ruling: 25.11.2021

OPIYO, J.

The application is for an order of extension of time so that the applicant can lodge a notice of appeal, apply for a leave to appeal to the Court of Appeal of Tanzania and that, the applicant be allowed to apply for court proceedings, decree and drawn order out of time.

The application is brought under section 11 (1) of the Appellate Jurisdiction Act, Cap 141, R.E 2019 and accompanied by the affidavit of the applicant, Hamza Athuman Mwingwa. The same was ordered to proceed by way of written submissions on 8th March 2021. As per the said order, the applicant was supposed to present his submission in chief on the 22nd of March, 2021, followed by reply submissions from the respondents on 5th of April, 2021 and a rejoinder if any from the applicant on 12th of April, 2021.

At hand, I have the submissions of the applicant only, the respondents on their part did not file their reply. Looking at the date when the submissions by the applicant were presented for filing in this court, I found out that the same were filed out of time. They were filed on the 23rd of March, 2021 instead of 22nd March, 2021 as ordered. There was no leave that was sought and granted by this court allowing the extension of time to present the file the said submissions out of time. It has already been settled in **Godfrey Kimbe versus Peter Ngonyani, Civil Appeal No. 41 of 2014, Court of appeal of Tanzania at Dar Es Salaam**, that failure to lodge written submissions after being ordered by court is tantamount to failure to prosecute or defend one's case. The submission that is filed out of time is tantamount to non-filing.

In the final analysis, this application is dismissed for want of prosecution.
No order s to costs.



M.P. OPIYO,

JUDGE

25/11/2021