

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

MISC. LAND APPLICATION NO. 441 OF 2020
(Arising from Misc. Land Application No. 49 of 2018)

SAMWEL AMOS GEKURA (As the administrator of the estate of the late
AMOS GEKURA) **APPLICANT**

VERSUS

SOFIA SAIDI.....**1ST RESPONDENT**

GERALD B.R. MUGUMIRA.....**2ND RESPONDENT**

Last Order: 16/06/2021
Ruling date: 20/08/2021

R U L I N G

MANGO, J.

By way of Chamber Summons made under Section 14(1) of the Law of Limitations Act, Cap 89 R. E. 2019, the Applicants prays for the following orders:-

- 1. That this Honorable court be pleased to extend time within which the Applicant may be allowed to lodge an application in this court out of time to cause the name of the Applicant to be made a party in the suit as legal representative of the deceased AMOS GEKURA and allow the suit to proceed on merits**
- 2. Costs of the Application, and**
- 3. Any other relief as this court shall deem fit and just to grant.**

The Application is supported by an affidavit sworn SAMWEL AMOS GEKURA, the Applicant. The first respondent contests the application and filed her counter affidavit to that effect. Both the Applicant and the first Respondent prosecuted the Application in person. On 24th April 2021, this Court granted a prayer to have the Application argued by way of written submissions. Parties filed their submissions as ordered except the second Respondent. It is well established that failure to file written submission amounts to failure to prosecute thus, the court proceeded to determine the application by considering submissions filed by the Applicant and the first Respondent.

According to the counter affidavit and the Applicants submission, the reason advanced by the Applicant for failure to apply to be made party to Application No. 49 of 2018 within time is sickness caused by a car accident. The Applicant's affidavit indicates that, Amos Gekura filed Application No. 49 of 2018 praying for extension of time to appeal against the decision of the District Land and Housing Tribunal for Ilala in Application No. 226 of 2009. Unfortunately, he passed away on 16th December 2018 while his application was still pending before this court. On 13th March 2019 he was appointed to be the administrator of the estate of the late Amos Gekura via Probate Cause No. 46 of 2019, Ukonga Primary Court. Unfortunately, he incurred a car accident in which he suffered serious injuries. To prove the occurrence of the car accident and injuries he suffered, he attached a copy of PF3 and Police Form 90.

The first Respondent submitted briefly that the Applicant did not account for his delay with any sufficient cause.

It is trite law that in order to be granted extension of time, the applicant need to establish a good reason and account for his entire period of delay. Sickness is among good reasons for extension of time. The Applicant has attached a

medical report which indicates that he was sick. The first Respondent has not averred any facts that contradicts the Applicants sickness. In such circumstances I find the Application to have merits and I hereby grant the same.

The Applicant should file his application to be made a party to Misc. Land Application No. 49 of 2018 within 30 days from the date of extraction of the drawn order from this ruling. Costs to follow events.



Z. D. MANGO
JUDGE
20/08/2021

