

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(LAND DIVISION)**

**AT DAR ES SALAAM**

**MISC. LAND APPLICATION NO. 172 OF 2022**

*(Arising from Land Application No. 382 of 2016 Mkuranga District Land and  
Housing Tribunal)*

**SHABANI MUHUNZI..... APPLICANT**

**VERSUS**

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

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

**RULING**

27.07.2022 & 24.08.2022

**Masoud, J:**

The applicant lodged this application under the provisions of Section 41(2) of the Land Disputes Courts Act, Cap 216 R.E 2019, seeking for an order of extension of time within which to file an appeal against the decision of Ilala District Land and Housing Tribunal (“The trial Tribunal”) in Land Application

No. 382/2016. The applicant further sought for an order for costs and any other incidental order as may be necessary to make.

The application was supported by an affidavit of the applicant dated 20<sup>th</sup> April, 2022. Both parties appeared in person. On the 08/06/2022, the court ordered that the application be disposed by way of filing written submissions.

I have gone through the records of this application and the parties' submissions for and against the grant of this application. The main issue for determination is whether the application at hand has merits.

My finding is that the impugned judgment was delivered on the 18/09/2019, and the copy of the judgment was certified and ready for collection on the 23/10/2020. It is undisputed fact that the applicant filed this application after the lapse of 31 months from the date the impugned judgment was delivered.

All these days, specified herein above, were not accounted for. Even if the days spent waiting for the certified copies of the impugned judgment (though there is no any proof that the applicant applied for the copies) and the days spent in prosecuting the appeal which was struck out on the 25/11/2021 are discounted, still the application beforehand was filed after the lapse of 146 days from the date the appeal was struck out. I say so because if one goes by the affidavit supporting the application, it becomes apparent that the applicant did not account for the delay of 146 days.

The only reason advanced by the applicant for the court to grant this application is that the impugned judgment is tainted with illegalities. In relation to the alleged illegalities, it was stated that the trial chairman failed to determine the lawful owner of the suit property. The alleged illegalities are pursuant to paragraph 4 of the applicant's affidavit.

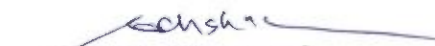
The law is very clear that alleged illegality of the decision which is sought to be challenged must be on the face of record, vital and of significance. Things are different in the present application as the alleged illegalities are not apparent on the face of record, neither was I convincingly shown that they

are significant and vital so to speak. See the case of **Principal Secretary, Ministry of Defence and National Service Vs. Divran P. Valambhia [1992] T.L.R 387.**

In the upshot, and having so found as herein above stated, the application beforehand is not meritorious. It is therefore dismissed with costs.

It is so ordered.

Dated at Dar-es-salaam this 24<sup>th</sup> day of August, 2022.

  
**B.S. Masoud**  
**JUDGE**

