

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

**MISC. LAND CASE APPLICATION NO. 114 OF 2019**

**KIANGWA TRADING COMPANY.....1<sup>ST</sup> APPLICANT  
ABDU MOHAMED KITUNZI.....2<sup>ND</sup> APPLICANT**

**VERSUS**

**MUZNA ALAWI IDARUS.....RESPONDENT**

**R U L I N G**

*Date of last Order:*

*Date of Ruling:*

**T. N. MWENEGOHA, J.**

The applicants are jointly seeking for an order of extension of time so that they can lodge their appeal out of time against the decision of the District Land and Housing Tribunal for Ilala, given in Land Application No. 253 of 2019. The application was brought under Section 41 (2) of the Land Disputes Courts Act, Cap 216, R. E. 2019 and accompanied by the affidavit of the 2<sup>nd</sup> applicant, Abdu Mohamed Katunzi.

Hearing of the application was by way of written submissions; Advocate Yusuph M. Mkanyati appeared for the applicants while the respondent was represented by Advocate L. C. Mlelwa.

Submitting for the applicant after praying to adopt the applicant's affidavit, Mr. Mkanyati argued that, the applicant failed to file his intended appeal on time because of the trial tribunal failed to supply them with the

copies of the impugned judgment. The applicants wrote to the trial tribunal to be given the said copies on March the 29<sup>th</sup>, 2022 but they waited until the 2<sup>nd</sup> of May, 2022 for such copies to reach them. That, at the time the said copies reached their hand, the time for appeal had already lapsed. He cited the case of **Damari Watson versus Innocent Singano, Misc. Civil Application No. 30 of 2021, High Court of Tanzania at Tabora (unreported)**. He went on to argue that, the decision of the trial tribunal contains illegalities where the 2<sup>nd</sup> applicant was tried together with the 1<sup>st</sup> applicant without having a cause of action against him.

In reply, the respondent's counsel maintained that, the applicants have failed to provide sufficient reasons for their delay. They did obtain the copy of judgment and decree 104 days after the delivery of judgment, although the said copies were ready for collection by parties since January 2022 after the judgment was delivered. That, it is their mistake that lead to their delay and not the tribunal's.

When the matter was called for mention to determine if pleadings are complete the Applicant informed this Court that they opted not to file a rejoinder.

I have considered the submissions of the applicant's and the respondent in this application through the learned counsels. Also, I have considered the affidavit and counter affidavits of both parties. The question need determination in the instant application is whether the Applicant's has shown a good and sufficient cause for their delay for this application to be allowed.

The applicants stated that, the reason for their delay to file their intended appeal was caused by the trial tribunal which was late to supply them with the copies of the impugned decision and decree. They have attached the letter requesting the said copies dated the 29<sup>th</sup> March 2022. The records however show that, the decision in question was delivered on the 18<sup>th</sup> January, 2022. That is to say, the applicants stayed for more than 60 days without taking any action including requesting for the copies of the impugned judgment and decree. And from the date they made a request, they stayed without making any follow-up to remind the tribunal of their request for the said judgment. In my opinion, the applicants themselves are the ones to blame for their negligence in pursuing their intended cause. Hence, they cannot come afterwards and blame the tribunal for mistakes that were done by themselves. To allow this application is as good as blessing laxity in administration of justice and it will go to prejudice the rights of the respondent in the matter in question, see **Benedict Shayo vs. Consolidated Holdings Corporation as Official Receiver of Tanzania Film Company Limited, Civil Application no. 366/01 of 2017, Court of Appeal of Tanzania.**

As for the point of illegality, I find the same to be weak as it is not apparent on the face of records of the trial tribunal (judgment and decree). It is a factual issue that need evidence to see whether the 2<sup>nd</sup> applicant was sued wrongly or not.

Eventually, the application is hereby dismissed with costs.



  
T. N. MWENEGOHA

JUDGE

30/08/2022