

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

MISC. LAND APPLICATION NO. 374 OF 2022

(Arising from Misc. Land Application No. 12 of 2014, before the District Land and Housing Tribunal for Kinondoni District)

LEORNARD MAKOMBE.....1ST APPLICANT
HUSNA NONDO.....2ND APPLICANT
GERSON PONELA.....3RD APPLICANT
JOSEPHAT MWAKASANGA.....4TH APPLICANT
JOHN MBELWA.....5TH APPLICANT
JACKSON LUHAVI.....6TH APPLICANT
ESTER MAKENZI.....7TH APPLICANT
JAMIL JAMIL HAMISI.....8TH APPLICANT
JOSEPH JOHN.....9TH APPLICANT
MAHMOOD MBILIKO.....10TH APPLICANT
EVA MWAIPASI.....11TH APPLICANT

VERSUS

MARTIN HUBERT MSIAGI.....RESPONDENT

R U L I N G

Date of Last Order: 12.10.2022

Date of Ruling: 28.10.2022

T. N. MWENEGOHA, J.

The applicants are seeking for an order of extension of time so that they can lodge an application for Revision out of time, against the decision given in Misc. Land Application No. 12 of 2014, decided by the District Land and Housing Tribunal for Kinondoni District. The application was brought under Section 14(1) of the Law of Limitations Act, Cap 89, R. E. 2019 and was accompanied the affidavit of Jerome Jeremia, the who is an Advocate for the applicants. The same was heard by way of written submissions and Ex-Parte against the respondent upon his failure to reply the submissions by the applicants. Advocate Evodia Beyanga Nino appeared for the applicants.

Upon reading the affidavit in support of the application together with the submissions from the applicant's counsel, it has come to my attention that, the Misc. Land Application No.12 of 2014, which form the basis of the application at hand was heard and determined Ex-Parte against the applicants. As stated in the affidavit and submissions, the applicants were not aware of the restoration of the said case, as the same was once dismissed for want of prosecution on 16th June, 2016. But was later restored and efforts to procure the attendance of the applicants (respondents in the said case) was fruitless.

Now, based on the facts shown herein above, the proper remedy for the applicants to challenge the decision entered by the District Land and Housing Tribunal for Kinondoni, vide Misc. Land Application No.12 of 2014

should the applicants to seek extension of time to file an application for setting aside the Ex-Parte order of the District Land and Housing tribunal for Kinondoni District. It is because the said case was decided Ex-Parte against the applicants. Under these circumstances, even if I allow the application at hand, the same will be useless as the proper remedy is available at the same tribunal which gave the Ex-Parte order, not in this court as intended by the applicants.

In the end, I strick out application. No order as to costs.

It is so ordered.




T. N. MWENEGOHA

JUDGE

28/10/2022