

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

AT DAR ES SALAAM

MISC. LAND APPLICATION NO. 331 OF 2022

(Arising from Land Appeal No. 185 of 2020)

THOMASI GILBERT OBILLA.....APPLICANT

VERSUS

PEPERTUA BONIFACE CHILAI.....1st RESPONDENT

ROBERT JOSEPH CHITI.....2nd RESPONDENT

PRISCA ISAYA KILWAI.....3rd RESPONDANT

RULING

07.09.2022 & 19.10.2022

Masoud, J:

The applicant filed this application under the provisions of section 14 (1) of Law of Limitation Act, Cap 89 R.E 2019 (The Act) and section 11(1) of Appellate Jurisdiction Act, Cap 141 R.E 2019 read together with **Section 47 (2) of Land Disputes Courts Act, Cap 216 R.E 2019** seeking for an order of extension of time within which to file an application

for leave to appeal to the Court of Appeal, costs of the application and any other relief the court may deem fit and just to grant.

The application was supported by an affidavit of the applicant dated 20th June, 2022. Both parties appeared in person. On the 28/07/2022, the court ordered that the application be disposed of 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.

In my scrutiny the decision intended to be appealed against was delivered on the 16/08/2021 in favour of the respondent, and the application at hand was filed on 23/6/2022 after a lapse of 10 months. My perusal of the record reveals that, the applicant being aggrieved by the said decision, he promptly filed Notice of Appeal.

The applicant thereafter filed an application for leave to appeal to the Court of Appeal (Misc. Land Application No. 678 of 2021), which was however on account of technicalities, struck out on 9/6/2022. According to the law, the applicant was required to file the application for leave to

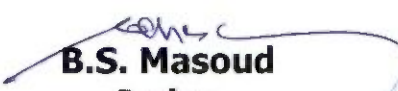
appeal to the Court of Appeal within thirty (30) days of the impugned decision.

The record of the application evidences that the applicant, for almost all 10 months, from the date of the decision sought to be appealed against, was in the court corridors pursuing his Application No. 678 of 2021 which was struck out on 9/6/2022. After the application for leave was struck out, the applicant hurriedly filed the current application on 23/6/2022, that is within 14 days only.

The above evidence is sufficient to show that at all the material time, of about ten months, the applicant neither slept on his right nor acted negligently after the judgment in Land Appeal No.185 of 2020 was delivered and after the Misc. Land Appl. No.678 of 2021 was struck out.

Having so observed herein above, the application beforehand has merits, and it is hereby granted. Costs shall be in the cause. The applicant is required to file his application for leave to appeal to the Court of Appeal within 14 days from the date of this ruling. It is so ordered.

Dated at Dar es salaam this 19th day of October, 2022.


B.S. Masoud
Judge

