

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

MISC. LAND CIVIL APPLICATION NO 52 OF 2022

AMINA LUFINGO.....1<sup>ST</sup> APPLICANT  
MSAFIRI JUMA.....2<sup>ND</sup> APPLICANT

VERSUS

HASSAN JUMA RASHID.....1<sup>ST</sup> RESPONDENT  
FINCA TANZANIA LTD.....2<sup>ND</sup> RESPONDENT  
BOSTON AUCTION MART AND AGENCY.....3<sup>RD</sup> RESPONDENT  
DANIEL ISSAYA.....4<sup>TH</sup> RESPONDENT

Date of Last Order: 06.10.2022  
Date of Ruling 14.11.2022

RULING

**V.L. MAKANI, J**

The applicants named above are applying for extension of time within which to file appeal out of time against the decision of Kinondoni District Land and Housing Tribunal (the **Tribunal**) in Land Application No. No.269 of 2017.

The application is made under section 41(2) of the Land Disputes Courts Act, Cap 216 RE 2019 and is supported by affidavit sworn jointly by the applicants.

The applicants' submission was drawn by Mr. Abdallah R.M. Matumla while Ms. Akwila Wilbard drew and filed submission on behalf of the 2<sup>nd</sup> respondent. The 1<sup>st</sup> 3<sup>rd</sup> and 4<sup>th</sup> respondents did not file any submission despite being duly served. The matter proceeded ex-parte against them.

Mr. Matumla said that the reasons for delay in filing the appeal are contained in paragraphs 1,2,3,3 and 5 of the applicant's affidavit. He added that Counsel for the applicants received the copy of the impugned decision late on 31/02/2022 when they were already out of time to appeal. He said they were late for about 59 days due to the Tribunal's delay in supplying the certified copies of the decision. He relied on the case of **Tanga Cement Company Limited vs Jumanne D. Masengwa & Another, Civil Application No.6 of 2001 (CAT)**(unreported). He prayed for this application to be granted.

Ms. Akwila Wilbard on behalf of the 2<sup>nd</sup> respondent, said that the decision of the Tribunal was delivered on 03/12/2021. That under section 41(2) of the Land Disputes Court Act time to appeal to the High Court is 45 days after the date of the decision. She said the applicants on 17/01/2022 requested for the copies of the decision which is 14 days

after the decision. She said copies of the decision were ready for collection on 24/01/2022 and the applicant collected the same on 31/01/2022 which is 7 days later. She pointed out that the applicants filed this application on 15/02/2022 which is 14 days from when they collected the copies. Counsel considered the situation as negligence on part of the applicants. She cited the case of **Alison Xevox Sila vs Tanzania Harbours Authority, Civil Reference No.14 of 1998 (HC-DSM)** (unreported) saying that applicants have failed to account for every single day of the delay. She prayed for this application to be dismissed with costs.

In his rejoinder Mr. Matumla reiterated what he stated in the main submissions.

I have gone through the submissions by Counsel and the main issue for consideration is whether this application has merit.

It is well settled law that for the court to exercise its discretionary power in extending time good cause for the delay must be shown by the applicant. What amounts to good cause has not been defined but it all depends on the nature and circumstances of each case. The applicant

must demonstrate by affidavit that he or she was prevented by sufficient cause from pursuing the intended action within the time limit and is obliged to account for every single day of the delay (see the case of **Lyamuya Construction Company Limited vs. The Board of the Registered Trustees of Young Women's Christian Association of Tanzania, Civil Application No. 2 of 2010 (CAT)** (unreported)).

The main reason advanced by the applicants for the delay is that there was a delay in the supply of the copies of the judgment and decree by the Tribunal. In other words, the applicants are putting the blame on the Tribunal for late supply of the copies of the judgment and decree. The records are very clear that the impugned decision was delivered on 03/12/2021. Counsel for the applicants requested for copies of the decision vide a letter which was received at the Tribunal on 17/12/2021. As correctly said by Ms. Akwila that was 14 days after the decision was delivered. Counsel for the applicant did not attempt to give any reason as to why the applicants did not take any action within those 14 days. The copies of the judgment and decree were prepared and certified and ready for collection on 24/01/2022 but this application was filed on 15/02/2022. This is about 21 days delay and there are no reasons advanced for this delay. The requirement to account for every single day of delay was stated in the case of **Bushiri Hassan vs. Latifa**

**Lukio Mashayo Civil Appeal No. 3 of 2007**(unreported) where the court stated:

*"Delay of even a single day has to be accounted for otherwise there would be no point of having rules prescribing periods within which certain steps has to be taken."*

It is apparent from the explanation above that the applicants have failed to account for the 14 days from when the impugned decision was delivered to when the request letter was lodged; and 21 days from when the copies were certified to when this application was filed.

On the strength of the above authorities and explanations, the applicant has failed to demonstrate and account for each day of delay. The applicant has also failed to establish sufficient reasons to warrant the court to exercise its discretionary powers to grant extension of time within which to appeal out of time. In that regard, the application is hereby dismissed with costs.

It is so ordered.



*V.L. Makani*  
**V.L. MAKANI**  
**JUDGE**  
**14/11/2022**