

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 Execution No.14 of 2016, Misc. Land Appeal No. 102 of 2011, by
before the High Court of Tanzania at Dar es Salaam)*

ZAKAYO COSAM AMBUKEGE (Administrator of the Estate of the late
COSAM AMBUKEGE)APPLICANT

VERSUS

AHMED MAFIMBA.....RESPONDENT

R U L I N G

Date of Last Order: 20.10.2022

Date of Ruling: 17.11.2022

T. N. MWENEGOHA, J.

The applicant is seeking for an order of extension of time so that he can lodge an application for review out of time, against the decision given in Misc. Land Case Appeal No.102 of 2011, by the High Court of the United Republic of Tanzania, dated the 5th of March 2013. The application was brought under section 14 of the Law of Limitations Act, Cap 89, R. E. 2019 and Section 95 of the Civil Procedure Code, Cap 33 R. E. 2019. It was accompanied by the affidavit of the applicant, Zakayo Cosam Ambukege. The same was heard by way of written submissions. Advocate Precious

Ahmad Hassan appeared for the applicant while the respondent was represented by Advocate Barnaba Luguwa.

Arguing in favour of the Application, Mr. Hassan insisted that, the reason for applying for extension of time is due to the existence of illegality in the impugned decision given by the High Court in Misc. Land Case Appeal No. 102 of 2011. That, the order of the High Court in the said case is vague, it does not state clearly as to what part of the disputed land should be evaluated for the compensation to be paid. He insisted that, the existence of illegality in the decision constitutes a good cause, sufficient to enlarge the time. He cited the case of **Metro Petroleum Tanzania Ltd & 3 Others vs. United Bank of Africa, Civil Appeal No. 147 of 2019, Court of Appeal of Tanzania at Dar es Salaam.**


In reply, Advocate Luguwa insisted that, the application is devoid of merits. The applicant failed to account for the years of delay which is about 9 years from the date when the impugned decision was delivered. Above all, the applicant wants to review the decision of the High Court which can be challenged by appeal.

Having gone through the submissions of both parties, the affidavit and counter affidavit, the issue for determination is whether the application has merit or not. In this case, the reasons given by the applicant for extending the time is the existence of illegality in the decision to which the intended review is sought. The applicant has insisted that, the order given by the High Court in its decision is vague, as it does not state clearly as to what part of the disputed land should be evaluated for the compensation to be paid.

I went through the decision in question and failed to see the illegality so complained to constitute a sufficient cause, capable of allowing the application at hand. It is settled that, for an illegality to constitute a ground for enlargement of time, it should be apparent on the face of records, see **Lyamuya Construction Company Ltd vs. Board of Registered Trustees of Young Women Christians Association of Tanzania, Civil Appeal No. 2 of 2010, Court of Appeal of Tanzania, (Unreported)**. Therefore, I find this application to be devoid of merits. The applicant has failed to provide any sufficient reasons for his delay and also, he did not account for all the days of his delay.

Eventually, the application is hereby dismissed with costs.

It is so ordered.



T. N. MWENEGOHA
JUDGE
17/11/2022