

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

**MISC. LAND CASE APPLICATION NO.588 OF 2021**

**(Arising from the Ruling of Hon. A.R. Kirumbi, Chairperson of  
Ilala District Land and Housing Tribunal, dated on 29<sup>th</sup>  
September, 2021 in Misc. Application No. 382 of 2021)**

**ANOLD MWEUSI..... APPLICANT**

**VERSUS**

**HADIJA JUMA ABRAHAM.....RESPONDENT**

**RULING**

*Date of Last Order: 29. 03.2022*

*Date of Judgment: 21.04.2022*

**T.N. MWENEGOHA, J**

Under section 8(1) and (2) of the Advocate Remuneration Order, GN. No 264 of 2015, Anold Mweusi is seeking to extend the time for him to be allowed to lodge Reference out of time, against the ruling of District Land and Housing Tribunal for Ilala, vide Misc. Application No. 382 of 2021. The application was supported by the affidavit of the applicant himself.

By consent of both parties, it was ordered for the application to be heard by way of written submissions on the 29<sup>th</sup> March, 2022. Both parties appeared in person.

In his submissions, the applicant claimed that, the Trial Tribunal delayed to supply him with the copies of the impugned judgment and decree. That, at the time the said documents reached the applicant, the statutory

time for his intended action has already lapsed. The said documents were given to him on 21<sup>st</sup> October, 2021. He was given the same vide exchequer receipt number, 921295075066838, dated 22/10/2021. He cited the case of **Benedicto Mumello versus Bank of Tanzania, Civil Appeal No. 12 of 2002, Court of Appeal of Tanzania at Dar es Salaam (unreported)**, where it was observed that,

*"We are of the view that, the delay to be supplied with copies of the proceedings and judgment and the two copies of decree containing different material particular contributed to the delay by the respondent to appeal within the prescribed period. In that respect, it is our considered view that the delay was with sufficient cause".*

Also, the case of **Mary Kimaro versus Khalfan Mohamed, 1995 TLR 202**, where it was held that,

*"A delay in appealing caused by the Applicant's delay in getting copies of appeal documents, constitutes a good and sufficient reason or cause".*

In reply, the respondent relied in the case of **Lyamuya Construction Company Limited V. Board of Registered Trustees of Young Women's Christian Association of Tanzania, Civil Application No.02 of 2010, Court of Appeal, (unreported)**, where it was held that ;-

*"As a matter of general principle, it is the discretion of the court to grant extension of time. But that discretion is judicial, and so it must be exercised accordingly to the rules of reason and justice and*

*not according to private opinion or arbitrarily”.*

That, the same case gave the following guidelines for consideration in extending the time; -

- a) The applicant must account for all the period of delay.*
- b) The delay should not be inordinate.*
- c) The applicant must show diligence and not apathy, negligence or sloppiness in the prosecution of the action that he intends to take.*
- d) If the court feels that, there other sufficient reasons as the existence of point of law of sufficient importance; such as illegality of the decision sought to be challenged”.*

The respondent therefore maintained that; the applicant has failed to account for the days of delay. There is a period of 5 days remained unaccounted for from the time when the documents were supplied to him to the date when the instant application was filed. She cited the case of **Sebastian Ndaula versus Grace Rwamafa (Legal Personal Representative of Joshwa Rwamafa), Civil Application No. 4 of 2014 (unreported)**.

In his rejoinder, the applicant insisted that, the days stated by the respondent to be not accounted for by the applicant were used in drafting and preparations of the necessary documents and filling of the same before the court. Therefore, the applicant has well accounted for the whole period of delay and deserve to be given the reliefs sought.

Having gone through the submissions of parties, the affidavit and counter affidavit as submitted by the parties, the question for determination is whether the application has merits or not. The rules for enlargement of time by our courts are well known. The applicant has to provide sufficient reasons for his delay and account for days of delay. And what constitutes

good cause is defined on case-by-case basis. The duty is on the applicant to provide the relevant materials in order to move the court to exercise its discretion as far as the application for extension of time is concerned, **see, Oswald Masatu Mwinzarubi versus Tanzania Fish Processors LTD, Court of Appeal of Tanzania, Civil Application No. 13 of 2010 (Mwanza Registry, (unreported)).**

In the case at hand, the applicant has faulted the trial District tribunal for Ilala for its delay to supply to him the necessary documents for him to file his Reference. On the other hand, the respondent didn't dispute on the existence of this fact, rather claimed that, there are more five days which were not accounted for by the applicant. She insisted that, these are the days covering the period from the date when the documents reached the applicant to the date of filling the instant application. In my view, as it is already settled, failure by the court or tribunal to supply the applicant with copies of judgment and decree amounts to sufficient cause, see **Benedicto Mumello, (supra)**. I find that the applicant has accounted for the days before filling the Ruling. Therefore, I find merits in this application as the reasons given by the applicant are sufficient to allow enlargement of time.

In the end, I grant 14 days from the date of this ruling for the applicant to file his intended reference. No order as to costs.

Ordered accordingly.



  
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**T.N. Mwenegoha.**

**Judge**

**21/04/2022**