

IN THE HIGH COURT OF TANZANIA

(LAND DIVISION)

AT DAR ES SALAAM

MISC. LAND APPLICATION NO. 59 OF 2022

(Originating from Land Case No.281 of 2017)

MWANAIKI AMRANI KAISI 1ST APPLICANT
JAMES GAYO 2ND APPLICANT
LUSEKELO AMANI MWAKIBETE 3RD APPLICANT
SARAH DIOTREPHES MMARI 4TH APPLICANT

VERSUS

**BRIAN SMEDGAARD (Duty constituted Attorney
of Amina Johazuni Mkamba) RESPONDENT**

RULING

Date of last Order: 25.04.2022

Date of Ruling: 25.04.2022

A.Z.MGEYEKWA, J

In this application, the Court is being asked to extend the time within which to file a Bill of Costs out of time. The application has been preferred under the provisions of section 14 (1) of the Law of Limitation Act, Cap. 89[R.E 2019] and section 95 of the Civil Procedure Code

Cap.33 [R.E 2019]. The application is supported by an affidavit deponed by Inviolata Wangoma, the applicants' Advocate. The applicant has set out the grounds on which an extension of time is sought.

The application was placed before me for hearing on 25th April, 2022. The applicants enlisted the legal service of Ms. Judith Ulomi, learned counsel, and the respondent enjoyed the legal service of Mr. Augustino Mariano, learned counsel.

Mr. Augustino, learned counsel for the respondent conceded to the application. The learned counsel for the applicants was brief and straight to the point. She urged this court to adopt the applicant's affidavit and grant his application

Having gone through the submission of both sides for and against the application. The issue which is the bone of contention in this Application, and on which the parties have locked horns, is *whether the applicant has adduced sufficient reasons to warrant this court to allow her application.*

I feel inclined to state at the outset of the determination of this matter that it is trite law that in an application for an extension of time the applicant is required to account for each day of delay In the case of

FINCA (T) Ltd and Another v Boniface Mwalukisa, Civil Application No. 589/12 of 2018 Court of Appeal of Tanzania at Iringa, (unreported) which was delivered in May, 2019.

Encapsulated in the applicants' affidavit specifically in paragraphs 4 and 5, the applicants stated that the Judgment was delivered on 26th October, 2021. He claimed that they received a copy of the Judgment on 15th February, 2022 and promptly the applicants lodged the instant application on 18th February, 2022. With regard to the facts of the matter at end it is clear that the delay was caused by the court's lateness in availing necessary documents to the applicants.

Reading the applicant's affidavit it is clear that the delay was out of the applicant's control since the delay was caused by this court lateness to issue the documents. I understand that in application for extension of time the applicant is required to state good cause of his delay. This position has been amplified in a multitude of the Court of Appeal of Tanzania decisions. In **Oswald Mwarabu Mwanzirubi v Tanzania Fish Processors Ltd**, Civil Application No. 13 of 2010, the Court of Appeal of Tanzania held that: -

"...what constitutes good cause cannot be laid down by any hard and fast rules. The term good cause is the relative one


and is dependable upon the circumstances of each case. It is upon the party seeking the extension of time to provide the relevant material to move the court to exercise its discretion.”

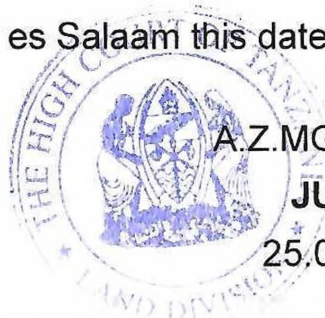
Applying the above authority, I am convinced that the applicant has adduced sufficient cause for his delay.

In the upshot, I proceed to grant the applicant's application to file a Bill of Costs within 30 days from today.


Order accordingly.

Dated at Dar es Salaam this date 25th April, 2022.


A.Z.MGEYEKWA
JUDGE
25.04.2022



Ruling delivered on 25th April, 2022 in the presence of Ms. Judith Ulomi, learned counsel for thr applicants and Mr. Augustino Majigu, for the respondent


A.Z.MGEYEKWA
JUDGE
25.04.2022

