

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

**MISC LAND APPLICATION NO. 717 OF 2021**

**ALLY ABDALLA SULE.....APPLICANT**

**VERSUS**

**MARIAM HAMIS HUSSEIN.....RESPONDENT**

**RULING**

**I. ARUFANI, J.**

The applicant filed in this court the present application under section 14 of the Law of Limitation Act Cap 89 R. E. 2019 and section 95 of the Civil Procedure Code Cap R. E. 2019 seeking for extension of time to file an appeal in this court out of time to challenge the decision delivered by the District Land and Housing Tribunal at Ilala vide Land Appeal No. 16 of 2021.

When the counsel for the applicant appeared in the court today he prayed to be allowed to amend the application or be allowed to withdraw the application with leave to refile. After considering the prayer made by the counsel for the applicant and after going through the law upon which the application is made the court has found the laws cited in the chamber summons to move the court to entertain the application cannot move the court to entertain the application.

The court has come to the stated finding after seeing the decision which the applicant intends to appeal against is originating from Ward Tribunal and the appeals for matters originating from Ward Tribunal are governed by Section 38 of the Land Disputes Courts Act, Cap 216 R. E. 2019. The court has found the Law of Limitation Act cannot be invoked to move the court to entertain the application because its section 43(f) states categorically that, it shall not apply to any proceedings for which a period of limitation is prescribed by any other written law. The court has also going through section 95 of the Civil Procedure Code which is also cited in the chamber summons and find that provision of the law was also wrongly cited in the application as it cannot be cited in a situation where there is a specific law dealing or governing a matter.

Since there is a specific written law prescribing the limitation of time to appeal against decisions originating from Ward Tribunals and this matter has its genesis from the Ward Tribunal and there is a specific provision of the law governing application for extension of time for matters of that nature which is the proviso to Section 38(1) of the Land Disputes Courts Act, the court has found it has not been clothed with Jurisdiction to entertain the application at hand.

As the court has not been clothed with jurisdiction to entertain the application it can neither allow the counsel for the applicant to amend the application nor to withdraw the application with leave to refile the same as prayed by the counsel for the applicant as the court has no jurisdiction to grant the sought prayers. To the view of this court the remedy available under that circumstances is to strike out the application as it is incurably defective.

In the premises the application is hereby struck out for being incurably defective. It is so ordered.



**I. ARUFANI**

**JUDGE.**

**06/04/2022**

**Court:**

Ruling delivered today 6<sup>th</sup> day of April, 2022 in the presence of the counsel for the applicant and in the presence of the respondent in person.



**I. ARUFANI**

**JUDGE.**

**06/04/2022**