

IN THE HIGH COURT OF TANZANIA

(LAND DIVISION)

AT DAR ES SALAAM

MISCELLANEOUS LAND CASE APPLICATION NO. 737 OF 2021

EDWARDINA MUTABIRWA BYAMUNGU.....APPLICANT

VERSUS

BAKARI MOHAMED.....RESPONDENT

Date of last order: 17/5/2022

Date of ruling: 30/5/2022

RULING

A. MSAFIRI, J.

By chamber summons lodged in this Court on 20th December 2021, the above named applicant is seeking for an extension of time within which to lodge reference against the decision of the Honourable Lung'wecha Taxing Master dated 27th September 2021.

The present application has been preferred under Order 8 (1) of the Advocates Remuneration Order GN 265 of 2015.

The chamber summons has been taken at the instance of the applicant and it is supported by an affidavit sworn by Edwardina Mutabirwa Byamungu, the applicant herein. *Alls.*

In this application, the respondent though duly served, did not enter appearance, equally no counter affidavit was lodged by the respondent. Hence the facts stated in the affidavit in support of the application have gone uncontested.

Hearing of the application was done orally whereby Regina Moyo learned advocate appeared for the applicant. Having adopted the affidavit in support of the application she urged the court to grant the application. The reason for not lodging the reference in time was caused by being supplied late with certified copies of the ruling and drawn order which according to the learned advocate were supplied to her on 13/12/2021.

On further submission, the learned advocate for the applicant contended that she wrote several letters requesting for the copies of ruling and drawn order dated 4/10/2021, 20/10/2021 and 22/11/2021. The learned advocate submitted further that the present application was lodged on 20/12/2021 because of the challenges caused by online filing system hence she prayed the application be granted. *Alle*

Having gone through the submission by the learned advocate for the applicant, the issue for my determination is whether the present application has merits.

It is imperative to give a factual background giving rise to the present application. Parties herein had a land dispute before Kibuta Ward Tribunal at Kisarawe. The trial Ward Tribunal decided in favour of the respondent herein hence the applicant was aggrieved with the Ward Tribunal's decision and preferred appeal No. 2 of 2018 before the District Land and Housing Tribunal for Kibaha (DLHT).

After hearing the parties, the DLHT nullified the proceedings of the Ward Tribunal and further stated that the respondent was at liberty to file a fresh suit after acquiring requisite *locus standi*. The DLHT also awarded costs for the applicant. The applicant herein therefore lodged bill of costs before the DLHT on 8th November 2018. The respondent raised preliminary objection regarding the competence of the said bill of costs and the said objection was sustained hence the bill of costs was dismissed on 27/9/2021. Hence being aggrieved, the applicant intended to challenge the order of the DLHT dismissing the bill of costs but being out of time she preferred the present application. *Aelle*

Back to the present application, the reasons for failure to lodge the reference in time was attributed by the fact that, the applicant was late to be supplied with the copy of the ruling and drawn order.

It is trite law that in an application for extension of time to do a certain act, like in present one, the applicant must show good cause for failing to do what was supposed to be done within the prescribed time.

Some of the decisions of the Court of Appeal of Tanzania which require good cause to be shown before the Court can exercise its powers for extension of time, are; **Abdallah Salanga & 63 Others v. Tanzania Harbours Authority**, Civil Reference No. 08 of 2003 and **Sebastian Ndaula v. Grace Rwamafa**, Civil Application no. 4 of 2014 (both unreported).

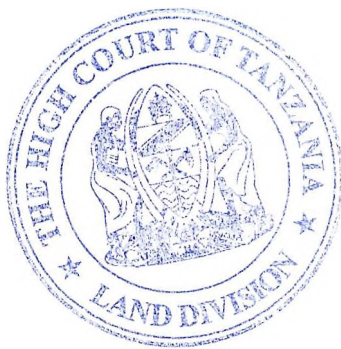
In the present application, I have seen the letters written by the applicant asking to be supplied with the certified copy of the ruling and the drawn order. These letters are dated 05/10/2021, 25/10/2021, and 22/11/2021 and finally the said copies were supplied to the applicant on 13/12/2021. To me, having being supplied late with the copies of the ruling and drawn order constitutes sufficient reason because reference could not have been lodged without the copies of ruling as well as drawn order. *Alls.*

Similarly, the applicant acted promptly because she had requested the certified copies of the ruling and drawn order within 21 days which is a period prescribed for lodging reference to the Court. This is evidenced by the letter dated 05/10/2021.

Consequently I find this application to be meritorious and the same is hereby granted. The applicant is granted 14 days from the date of this ruling to lodge her reference. I will make no order as to costs.

It is so ordered.

Dated at Dar es Salaam this 30th day of May 2022



A handwritten signature in blue ink, appearing to read "A. Msafiri". The signature is written in a cursive style and is positioned above a horizontal dotted line.

A. MSAFIRI
JUDGE.