

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LAND DIVISION)**

AT DAR ES SALAAM

LAND REVISION NO. 34 OF 2020

(Originating from Ilala District Land and Housing Tribunal, Misc. Application No. 404 of 2016,)

**KESI ALLY
JABIR SANZE
KASAMBALA** }**APPLICANTS**

VERSUS

GIDION KAINO MANDESI.....RESPONDENT

R U L I N G

Date of Last Order: 16. 05. 2022

Date of Ruling: 31.05.2022

T. N. MWENEGOHA, J.

At the District Land and Housing Tribunal for Ilala, the respondent, Gidion Kaino Mandesi, applied for an execution order, vide Misc. Application No. 404 of 2016. On the 11th of August, 2020 when the case was called for the applicants, 2nd and 3rd applicants in particular, being respondents in the execution proceedings, through the services of Advocate Ngojo informed the presiding Chairperson, Hon. A.R. Kirumbi that, they have applied for a stay of the execution. Regardless of being informed of the existence of an application for stay of execution, the Hon. Chairperson went on to grant the application before him in favour of the respondent and ordered the execution to proceed. A tribunal broker one Msolopa Auction Mart was appointed to assist the tribunal in the execution process.

Against this background, the applicants lodged the instant case under Section 43 (1) (b) of the Land Disputes Courts Act, Cap 216, R. E. 2019. They have supported the same with an affidavit of Gibson Ngojo, their Advocate. Their main prayer is for the court to call for the records and proceedings of the District Land and Housing Tribunal for Ilala and examine its correctness, propriety and revise the same.

When the case came for hearing on 31/03/2022, the parties were ordered to proceed by way of written submissions. The schedule for filing the submissions was as follows: the applicant was to file their written submissions in chief on 08/04/2022. A reply from the respondent was to reach the court on 20/04/2020 followed by a rejoinder if any from the applicants on the 25th April, 2022.

Surprisingly, the applicants did not file his submissions as ordered. On the 25th April, the applicants sought and were granted an extension of time to file their written submissions within two days. That the same were to reach the Court on 27/05/2022. Again, they failed to file the said submissions as ordered after being granted the extension of time. Their written submissions in chief reached this Court on the 28th May 2022. This fact also came to the attention of the respondent and he decided to notify this Court to take a due consideration on that. The respondent has contended in his submissions that, the rules are clear, failure to file written submissions as ordered amounts to failure to prosecute or defend one's case.

I fully subscribe to his arguments. After all this is a well settled rule. That, by failing to file the written submissions within the scheduled time, the responsible party has to suffer the consequences. In this case, then the

only remedy available to the applicant is a dismissal order as it is clear that they have lost interest to prosecute their case, **see Wananchi Marine Product (T) Limited vs. Owners of Motor Vehicle, Civil Case No. 123 of 1996, High Court of Tanzania, at Dar es Salaam (unreported) and Leonard Nyang'ye vs. The Republic, Misc. Criminal Application No. 39 of 2016 High Court of Tanzania at Mbeya, (unreported).**

Eventually, the case is dismissed with costs for want of prosecution.




T. N. MWENEGOHA

JUDGE

31/05/2022