

**IN THE HIGH COURT OF TANZANIA
(LAND DIVISION)
AT DAR ES SALAAM
MISC.LAND CASE APPLICATION NO. 704 OF 2021**

HAMIS MWINYI.....1ST APPLICANT

SAUDA SELEMAN.....2ND APPLICANT

VERSUS

ASHA AKBAR CHOPRA.....RESPONDENT

RULING

24/3/2022 & 11/5/2022

Masoud, J.

There was an order for filing written submissions. The applicants were to start by filing their written submission in chief in support of their application. The application was for extension of time within which to file a notice of appeal against the decision of this court in Land Case No. 354 of 2016 dated 30/7/2021. It was made under S.14(1) of the Law of Limitation Act, Cap 89 R.E 2019. The applicants did not file any submission pursuant to the order of the court.

When the matter came up for mention, with a view to fixing a date for ruling, the applicants told the court that they did not wish to file any written submission as ordered by the court.

On the other hand, the respondent had it that the applicants have simply failed to comply with the order of the court that directed the parties to file their respective written submissions on specified dates. In this respect, the respondent called upon the court to dismiss the matter with costs. The applicants had nothing to say other than asking the court to grant their application.

On my part, I was clear that on 10/2/2022, this court ordered the matter to be argued by filing written submissions. Indeed, the applicants were to file their written submission in chief by 4/3/2021. The respondent was to file her reply to the applicants' written submissions in chief by 18/3/2022. The applicants were to file their rejoinder if any by 24/3/2022. And the matter was set for mention on 24/3/2022 with a view to fixing the matter for ruling date.


It is again clear on the record that the applicants were already out of time to file or make any submission when they told the court that they do not wish to file any submission, in support of their application.

It is settled law that failure to file written submissions pursuant to an order of the court is tantamount to failure to appear before the court on a date set for hearing. It is in the present matter clear that there is no submissions in chief on the record filed by the applicants pursuant to the

order of the court. The submissions made after the date on which the applicants were to file their submissions can not in the circumstances substitute the submissions if at all which were to be filed within the timeframe set by the court. I am mindful that there was no application duly made for extension of time within which to file or make the submission. The submissions that the applicants had nothing to submit on and did not wish to file any submission were made in violation of the court's order requiring the parties to file their respective submissions. It is at best tantamount to submissions made out of time without leave of the court.

In the upshot, the application is dismissed with costs, for the applicants' failure to prosecute the matter.

Dated at Dar es Salaam this 11th day of May 2022.


B.S. Masoud
Judge
11/5/2022

