

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

MISC. LAND CASE APPLICATION NO. 782 OF 2022
(Originating from Land Appeal No.186 of 2021)

EMANUEL KAGANDA.....1ST APPLICANT
RAMADHANI HASSAN.....2ND APPLICANT

VERSUS

MUSTAFA HARUNA KIGUFA.....RESPONDENT

R U L I N G

Date of Last Order: 07.02.2023

Date of Ruling: 28.02.2023

T. N. MWENEGOHA, J.

The applicants are seeking for a leave to appeal to the Court of Appeal of Tanzania, against the whole decision of this Court, given by Hon. Arufani, J. vide Land Appeal No. 186 of 2021, dated 17th June, 2022. The Application was made under Section 47(2) of the Land Disputes Courts Act, Cap 216 R. E. 2019. It was also accompanied by the joint affidavit of the applicants, Emanuel Kaganda and Ramadhani Hassani.

The respondent on his part, raised a preliminary objection on point of law that, the Application is time barred. Advocate Irene Felix, arguing in favor of the objection, for the respondent, maintained in her written submissions that, the Application at hand contravenes the provisions of **Rule 45(a) of the Court of Appeals Rules as Revised in 2019**. That,

the same was brought 172 days from the date when the impugned decision of Hon. Arufani, J. was delivered. That, the decision of Hon. Arufan J was delivered on the 17th June 2022, while the Application at hand was filed on the 5th December 2022. Therefore, as per Section 3(1) of the Law of Limitations Act, Cap 89, R. E. 2019, the same is time. She also cited the case of **John Cornel versus A. Grevo (T) Ltd, Civil Case No. 70 of 1998, High Court of Tanzania, (unreported)**.

In reply, Advocate James Generali Marenga was of the view that, the Application was filed within time on the 8th November, 2022 at 13:55:50 hours. Though the same was rejected by the Registrar on grounds that it was filed out of time. However, after a discussion with Hon. Kisongo, the same was filed again and admitted on the 1st of December, 2022 at 08:13:13 hours. It is on this reason, that the respondent sees the Application to have been filed out of time. However, it is not the fault of the applicants that led the instant Application to be out of time, rather the Registrar of this Court is the one to blame.

I have considered the submissions of both parties with regard to the preliminary objection raised by the counsel for respondent. The issue for determination is whether the objection has merit or not.

I am of the view that, the objection has merits. My answer is based on the arguments put forward by the applicants' counsel. He did in fact admit that the Application is time barred. However, he placed the blames to this Court, particular to the Deputy Registrar, Hon. Kisongo. That, she is the one to blame after rejecting to admit the Application when filed online on the 8th November, 2022. These arguments in my opinion are allegations that need proof. At this point as I am dealing with the

preliminary objection, I am not allowed to receive any evidence. Hence, I find the objection to be meritorious and sustain it accordingly.

In the end, the Application is struck out. No order as to costs.

It is so ordered.




T. N. MWENEGOHA

JUDGE

28/02/2023