

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

MISC. LAND CASE APPLICATION NO.15 OF 2023

*{Arising from Land Application No.111 of 2019, by the Ilala District Land
and Housing Tribunal, by Hon. A.P Kirumbi}*

**JONAS BUNINI(Adminstrator of the Estate of the late Lawrence
Bunini).....APPLICANT**

VERSUS

HALIFA H. MAREALLE.....RESPONDENT

RULING

Date of Last Order: 20.02.2023

Date of Ruling: 31.03.2023

MWENEGOHA, J

The applicant is seeking for an order of extension of time so that they can lodge an appeal out of time, against the decision of Hon. A.P Kirumbi, learned Chairman of Ilala District Land and Housing Tribunal, vide Land Application No. 111/2019. This application was brought under section 14(1) of the Law of Limitation Act, Cap 89 R.E 2019. It was accompanied by the joint affidavit of the applicant himself, Jonas Bunini. The same was heard by way of written submissions.

Advocate Andrew Miraa, appeared for the applicant. His submissions in favour of the application were briefly that, the delay to file his intended appeal was caused by the trial Tribunal itself. That, the same failed to

supply him with the copies of Judgment and Decree within time. That, he requested the said documents on the same date when the Judgment was delivered, that is on the 30th September 2022 but the same were not given to him. He again reminded the tribunal two more times through letters dated 10/10/2022 and 14/11/2022. The said documents were handed over to him on the 13th of December 2022 when the time to appeal had already lapsed, (see annexure JB-2, JB-3, JB-4 and JB-5). Further, the counsel for the applicant fell sick and had to obtain medical attention from the 20th of December 2022 to 10th January 2023 as shown by annexure JB-7 to JB-9. He cited the case of **Charles Jackson and 4 Others versus S.H Amon Enterprises C. Ltd, Misc. Land Application No. 135 of 2022, High Court of Tanzania at Mbeya District Registry (unreported)** and insisted that, as per the cited case, the time for appeal started to run on the 13th December, 2022. As for the sickness of the applicant, Mr. Miraa referred the Court to the case of **Esther Manonga versus Esther Lohay, Misc. Civil Application No. 74 of 2022, High Court of Tanzania at Arusha District Registry, (unreported)**.

In reply it was argued that the delay occasioned prior to being supplied with the copies of Judgment and Decree is automatically excluded as stated in a number of authorities including the case of **Gando Enterprises versus Asha Said Awadh & Another, Misc. Civil Application No. 123 of 2021, Court of Appeal of Tanzania at Dar Es Salaam (unreported)**. Therefore, that applicant had ample time to appeal from the 13th of December 2022 when he got the said documents up to the 26th of January 2023. That filling the instant Application while the applicant was within time to file his appeal is unjustifiable.

I have considered the submissions by the applicants, together with the affidavit and counter affidavit submitted for the Application. The issue for determination is whether the Application has merit or not. For this Application to have merits, the applicant is supposed provide a sufficient cause for their delay and further to account for it, see **Osward Masatu Mwinzarubi versus Tanzania Fish Processing Ltd, Civil Application No. of 13 of 2013, Court of Appeal of Tanzania, (unreported)**.

The applicant has stated the reason that led to the delay in taking the intended actions is the fact that, the trial tribunal failed to supply him with the copies of Judgment and Decree within time. That, the said documents reached him on the 13/12/2022, more than 60 days after the delivery of the said Decision which was on the 30th September, 2022. Another reason for his delay was his sickness as he needed medical attention from 20th December to 10th January 2023 when he filed the instant case, see **annexures JB-2 to JB-5 and JB- 7 to JB-9**.

In my opinion, these reasons are sufficient enough to allow this Application. It is obvious that the applicant has managed to give a detailed account of what caused his delay see **Charles Jackson and 4 Others versus S.H Amon Enterprises C. Ltd (supra)** and **Manonga versus Esther Lohay. (supra)** He deserves an enlargement of his time. After all, as contented by both counsels, we need to exclude the time spent in obtaining the copies of the impugned Decision and Decree as stated in **Gando Enterprises Vs Asha Said Awadh & Another (supra)**. Therefore, the Application at hand has merits.

In the end, the Application is allowed. The applicant is given 14 days from the date of this Application to lodge his intended appeal. No order as to costs.




T.N. Mwenegoha.

Judge

31/03/2023