

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

MISC. LAND CASE APPLICATION NO.316 OF 2023

*{Arising from Land Application No.88 of 2020, by Temeke District Land and Housing
Tribunal}*

MOHAMED ABDALLAH RAJABU.....APPLICANT

VERSUS

MUSSA IBRAHIM MUSSA.....RESPONDENT

RULING

Date of Last Order: 12.05.2023

Date of Ruling: 30.06.2023

T.N.MWENEGOHA, J

The applicant, is seeking for an order of extension of time, so that he can lodge an appeal out of time, against the judgment and decree of Hon. Chinyele P.I, Chairperson of the District Land and Housing Tribunal for Temeke District, vide Land Application No.88 of 2020, dated 13th March, 2023.

The application was brought under section 41(2) of the Land Dispute Courts Act, Cap 216, R.E 2019, and accompanied by the affidavit of the applicant, Mohamed Abdallah Rajabu. The same was heard by way of written submissions.

Mr. Idd Mwiri, counsel for the applicant, after praying the applicant's affidavit to be adopted and form part of his submissions, stated that, the delay to file the appeal was caused by the applicant's travel to Mwanza,

to take care of his sick mother who was suffering from Covid 19. That, he was given the copies of the decision and decree on the 24th April, 2023 and immediately on the next day, he went to Mwanza for the reasons afore-stated. To cement his arguments, the applicant's counsel cited the case of **Morris Shepea versus Raphael Mollel Lenesira Mollel, Misc. Land Application No. 45 of 2021, High Court of Tanzania, at Arusha (unreported)**

On the other hand, Advocate Godfrey F. Alfred, for the respondent argued against the application. He maintained that; the applicant has failed to give sufficient reasons for his application to be allowed. He didn't account for each day of delay. That, the copies of the impugned judgment were supplied to him within time, on the 24th of March, 2023, but he failed to appeal within time for reasons only known to him. The respondent's counsel cited several cases in his submissions, including the case of **Jehangir Aziz AbdulRasul & 2 Others versus Balozi Ibrahim Abubakar and Bibi Sophia Ibrahim, Civil Application No. 265/01/ of 2016, Court of Appeal of Tanzania, at Dar Es Salaam, (unreported)**

In his rejoinder, the applicant's counsel reiterated his submissions in chief.

I have considered the submissions of parties through their respective counsels. Also gone through the affidavit and counter affidavit against the application. The issue for determination is whether the application has merits or not.

The rules governing enlargement of time by courts are given in a number of authorities. All of them speak of the same thing, that the court should not allow an application for extension of time, unless the applicant has a

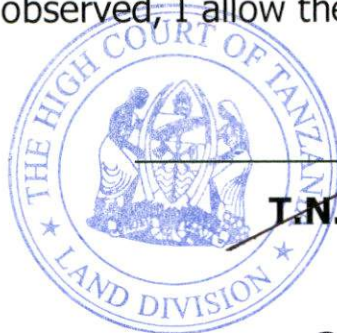
good course for his/her delay. And also, the applicant has accounted for each day he or she delayed in taking the intended course. Either, it has been settled that, what amount to a sufficient cause has to be decided based on the circumstance of each case. See **Oswald Masatu Mwinzarubi versus Tanzania Fish Processors LTD, Court of Appeal of Tanzania, Civil Application No. 13 of 2010 (Mwanza Registry, (unreported).**

The applicant has tried to show this Court that he had a sufficient reason for his delay to pass the test required for his application to be allowed. He annexed bus tickets, to and from Mwanza (annexure MAR-3) to prove that he had travelled to Mwanza.

The law also is settled that, allowing an application of extension of time is within the discretion of the Court, though such discretion is to be judiciously exercised, see **Jehangir Aziz AbdulRasul & 2 Others versus Balozi Ibrahim Abubakar and Bibi Sophia Ibrahim**, (supra). Based on the facts and circumstances of the case at hand, I am of the opinion that the applicant has stated reasons to be given a chance, to fight for his rights against the decision in question.

I further considered the rights of the respondent and I am satisfied that the respondent will not be prejudiced by the court's decision of extending the time in this case.

Having so observed, I allow the application, with no order as to costs.




T.N. Mwenegoha.

Judge

30/06/2023