

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

MISC LAND APPLICATION NO. 237 OF 2023

(Arising from Misc. Application No. 251 of 2022, Ubungo District Land and Housing Tribunal; Application No. 411 of 2020, Kinondoni District Land and Housing Tribunal)

**SHUKURU BARTHOLOMEW MEENA.....1ST
APPLICANT**

**SELYBERT M. MKOPE.....2ND
APPLICANT**

VERSUS

**NICAS JOHN KIMOLO.....1ST
RESPONDENT**

**EVARIST BILUYA MWIZALUBI.....2ND
RESPONDENT**

RULING

6-11 July, 2023

E.B. LUVANDA, J

The Applicants named above are seeking for extension of time to file an appeal out of time against the decision of a trial tribunal in Misc. Application No. 251/2022, dated 27/02/2023. In the affidavit, the Applicants stated that the delay to file appeal was caused by the trial tribunal for failure to release copies of ruling and drawn order timely, from 06/03/2023 when it was ought to 19/04/2023

when were supplied, after reminder on 24/03/2023 and 19/04/2023.

In a counter affidavit, the Respondents stated that the Applicants failed to take initiative including visiting the tribunal to make follow-up, instead damped their letters, and keep waiting which is the reasons for delay. The Respondents further stated that there is a big gap between the dates in the first letter and the dates in the rest of the reminder letters.

In a reply to a counter affidavit, the Applicants stated that their Counsel was making followup every Wednesday and Friday, where he was told the ruling was at a stage of proof reading.

Mr. Ferdinand Masoy learned Counsel for Applicants submitted that ruling and drawn order was signed and released on 19/04/2023 almost after two months and it come to his knowledge on 21/04/2023 and up to 24/04/2023 he used this time for preparation of this application and uploading on the system, whereby on 25/04/2023 this application was admitted and filed. That he made several follow up both physical and official by writing several letters seeking ruling and drawn order so as to

persue (sic, pursue) for appeal, where the time for appeal elapsed. He cited the provision of section 41(2) of the Land Disputes Courts Act, Cap 216 R.E 2019, **Kaemil Sedral vs. Robison Sedral**, Land Appeal No. 12/2021, **Lyamuya Construction Company Limited vs. Board of Registered Trustees of Young Women's Christian Association of Tanzania**, Civil Appl No. 2/2020.

In opposition Mr. Peter Wenceslaus Semi learned Counsel for Respondents submitted that the length between the first letter and reminder letters was in ordinate, the Applicants did not take initiative to seek for the reply of the letter. He submitted that they were writing letters and upon filing they negligently relaxed and never take any initiatives including physical follow up.

General speaking, in the affidavit in support of their application, the Applicants genuinely demonstrated the cause of delay being attributed to the delay to supply the requested documentations for processing the intended appeal including a ruling and drawn order. The Applicants have demonstrated initiative and efforts taken including writing a letter for requesting the same on 06/03/2023 and thereafter making polite reminder on 24/03/2023

and second reminder on 19/04/2023, including physical followup on every Wednesday and Friday as per averments in a reply to a counter affidavit. To my view, the issue of negligence, inordinate delay, gaps between letters, relaxation, or damping letters, are all artificial as does not reflect on tangible efforts and essential steps made by the Applicants sooner after delivery of the impugned decision and immediate affirmative action taken after procurement of copies of ruling and drawn order. I therefore hold a view that the Applicants demonstrated good cause for delay and also accounted for each day of delay.

The Applicants are granted an extension of fourteen (14) days to file their appeal against the decision of the trial tribunal dated 27/02/2023 in Misc. Application No. 251 of 2022.

The Application is granted. No order for costs.

E.B. LUVANDA
JUDGE
11/07/2023