

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(LAND DIVISION)**

**AT DAR ES SALAAM**

**MISC. LAND APPLICATION NO. 465 OF 2023**

*(Originated from the decision of land Application No. 122 of 2018 delivered in the Land and Housing Tribunal on the 20<sup>th</sup> day of March 2023 before Hon. Kirumbi)*

**HEMED MUSTAFA** (As legal representative of the late

**MUSTAFA SALEHE) ..... APPLICANT**

**VERSUS**

**FADHILI MFAUME YANGE ..... 1<sup>ST</sup> RESPONDENT**

**IDD MFAUME YANGE.....2<sup>ND</sup> RESPONDENT**

**RULING**

**I. ARUFANI, J**

The applicant filed in this court the application at hand seeking for among other orders, an extension of time within which to appeal to this court against the ruling of the Ilala District Land and Housing Tribunal delivered in Land Application No. 122 of 2018 dated 20<sup>th</sup> March, 2023. The application is made under Section 41 (1) and (2) of the Land Disputes Court, Act Cap 216 R.E 2019 and is supported by an affidavit of the counsel for the applicant namely Iddi Mussa Msawanga.

When the application came for hearing today 30<sup>th</sup> day of August, 2023 the applicant was represented by advocate and while the second respondent appeared in the court in person the first respondent failed to appear in the court. The second respondent told the court the first

respondent is his relative and after being served with the application they have decided they should not resist the applicant to be granted the order is seeking from the court of being granted leave to appeal to this court out of time.

After being informed by the second respondent that they are not contesting the application, the court has gone through the chamber summons and its supporting affidavit as filed in the court. The court has found the reasons for the applicant to delay to appeal on time was caused by delay to get the documents he requested to be supplied by the tribunal which were Judgment and proceeding of the case. To the view of this court and as stated by the Court of Appeal in the case of **Valerie Mecgovern v. Salim Farkrudin Balal** Civil Appeal No. 386 of 2019 (unreported) the period the applicant was waiting to be supplied with the sought document is supposed to be excluded from the period of lodging her appeal in the court.

That being the position of the law the court has failed to see any reasons which can make it to refuse to grant the applicant the order is seeking from the court. Consequently, the application of the applicant is hereby granted and the applicant is granted leave to lodge appeal in the court against the decision of the trial tribunal delivered in Land Application No. 122 of 2018. The appeal to be lodged in the court within



twenty-one (21) days from the date of this ruling. Each party to bear his own costs. It is so ordered.



**Court:**

  
I. Arufani  
**JUDGE**  
30/08/2023

Ruling delivered today 30<sup>th</sup> day of August, 2023 in the presence of Mr. Idd Mussa Msawanga, learned advocate for the applicant and in the presence of the second respondent in person. Although the first respondent is absent but the second respondent who is his relative is present in the court. Right of appeal to the Court of Appeal is fully explained to both sides.



  
I. Arufani  
**JUDGE**  
30/08/2023

