

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(LAND DIVISION)**

**AT DAR ES SALAAM**

**LAND APPEAL No. 286 OF 2023**

**(Arising from Land Application No. 103 of 2022 Originating from Land  
Dispute No. 111 of 2014 at Kongowe Ward Tribunal)**

**ISACK VEDASTO RWIZA .....1<sup>ST</sup> APPELLANT**

**JOYCE MAYEYE.....2<sup>ND</sup> APPELLANT**

***VERSUS***

**HABIBA ALLY UREMBO (Administrator of the estate of the late  
ALLY MOHAMED UREMBO).....1<sup>ST</sup> RESPONDENT**

**MWAJUMA O. TUNGWE.....2<sup>ND</sup> RESPONDENT**

**JUDGMENT**

*14<sup>th</sup> November & 14<sup>th</sup> December 2023*

**L. HEMED, J.**

The Appellants were not parties to Land Case No.111 of 2014, which was decided between the 1<sup>st</sup> and 2<sup>nd</sup> Respondents by the Ward Tribunal for Kongowe (WT) on ownership of a piece of land situated at **Dengetali Miembesaba-Kongowe in Kibaha**. They were aggrieved by the said decision of the WT and sought to challenge it. Since they were out of time, they lodged in the District Land and Housing Tribunal



for Kibaha, Misc. Application No.103 of 2022 seeking for, among others, extension of time to prefer an application for revision.

After having scrutinized the said application, the District Land and Housing Tribunal for Kibaha found it to have no merits and thus dismissed it. The reason for refusing the said application was that the appellants herein did not demonstrate good and sufficient cause for the delay. In fact they were aggrieved by the decision of the DLHT, hence the instantaneous Appeal on the following grounds quoted verbatim hereunder-

*"1. That, the trial Chairperson erred in law and fact to hold that the appellant had to account for each day of delay while the appellant was never joined and served any summons to appear and defend their case.*

*2. That, the trial Chairperson erred in law and fact to hold that the appellant should have accounted for each day of delay while their where not part to the suit." (sic)*

When the matter was called on 29<sup>th</sup> September 2023 for necessary orders, it was directed that the Appeal be argued by way of written



submissions. Submissions in chief were to be filed by 10<sup>th</sup> October 2023, while reply submission was to be filed on or before 24<sup>th</sup> October 2023. According to the scheduling order, rejoinder submissions was to be presented for filing by 31<sup>st</sup> October 2023. Parties filed their submissions as per the directives of the court. In arguing the Appeal, the appellants were duly represented by Mr. **Wilson Magoti**, learned advocate while the respondents acted in person.

Concerning the 1<sup>st</sup> ground Mr. Magoti submitted that the trial tribunal erred to hold that the appellants had to account for each day of the delay while they were neither joined nor served with any summons to appear and defend their case. In his view, the failure to join them in the case before the Ward Tribunal ought to have been considered by the DLHT as illegality sufficient to extend time. He relied on the decision of the Court of Appeal of Tanzania in **Justine F. Burure vs Haji R. Mwikalo**, Civil Application No.66/17 of 2022.

In respect of the 2<sup>nd</sup> ground of appeal, he argued that DHLT failed to consider that they were not party to the original proceedings and hence, the only remedy for them is revision. He fortified his argument by citing the decision in **Dennis T. Mkasa vs Farida Hamza**, Civil



application No. 46/08 of 2018. He ended praying for the court to intervene and grant extension of time.

On her part, the 1<sup>st</sup> Respondent argued to support both grounds of appeal. She was of the opinion that since the appellants were not party to the original proceedings, the only remedy for them is to apply for revision. She was of the view that the appellants be granted extension of time to file the intended application for revision.

In reply submissions presented by the 2<sup>nd</sup> respondent, she argued against the appeal that the appellants had failed to advance sufficient cause to enable the DLHT to grant extension of time to file revision. In her submissions, the 2<sup>nd</sup> Respondent stated that the appellants were aware of the existence of the dispute since 2019, they opted to sleep for three (3) years. She prayed the court to dismiss the entire Appeal.

Having gone through the rival submissions presented by the parties, it is pertinent to determine whether the appeal is meritorious. It is trite law that an application for extension of time is entirely in the discretion of the court to grant or refuse it, and that extension of time may only be granted where it has been sufficiently established that the delay was with sufficient cause. This is pursuant to section 14(1) of the Law of Limitation Act,[Cap.89 R.E 2019] which provides thus-

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*"Notwithstanding the provisions of this Act, the court may, **for any reasonable or sufficient cause, extend the period of limitation for the institution of** an appeal or **an application**, other than an application for the execution of a decree, and an application for such extension may be made either before or after the expiry of the period of limitation prescribed for such appeal or application."*  
(Emphasis added).

What constitute a sufficient cause has not been defined in any statute, rather through case law. In the case of the **Regional Manager, Tanroads Kagera Vs Ruaha Concrete Company**, Civil Application No. 96 of 2007 (unreported), the Court of Appeal of Tanzania observed that-

*"What constitutes sufficient cause cannot be laid down by any hard and fast rules. This must be determined by reference to all the circumstances of each particular case. This means that the applicant must place before the Court material which will move the Court to exercise its judicial discretion in order to extend the time limited by the rules. "*

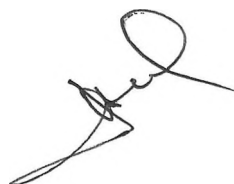
Likewise, in **Lyamuya Construction Company Limited vs Board of Trustees of Young Women's Christians Association of Tanzania**, Civil Application No. 2 of 2010, the Court of Appeal in



Tanzania established the guidelines in determining applications for extension of time. The said guiding factors are as follow-

- a) The applicant must account for all the period of delay;
- b) The delay should not be inordinate;
- c) The applicant must show diligence, and not apathy, negligence; or
- d) If the court feels that there are other sufficient reasons such as the existence of a point of law of sufficient importance such as the illegality of the decision sought to be challenged.

I have taken time to go through the affidavit and submissions in respect of Misc. Land Application No.103 of 2022 before the District Land and Housing Tribunal for Kibaha, to find out if sufficient cause was demonstrated for extension of time. In their joint affidavit and submissions to support the application, the appellants herein deployed a lot of efforts to show their interests over the suit landed property. The appellants stated nothing as to what caused them delay in lodging the application for revision in time.

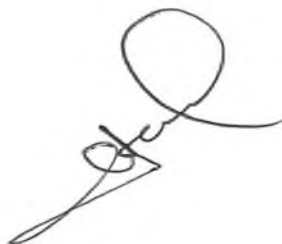
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In their joint affidavit to support the application before the DLHT, the applicants confessed that they became aware of the matter in 2019. This is pursuant to paragraph 8 of the affidavit, which states thus-

*" 8. The applicants become aware of this dispute on **May 2019** subsequently visiting their farm/piece of land and get information from their neighbours that the second respondent claims to be the rightful owner of the said suit land after won the suit against 1<sup>st</sup> respondent." (Sic)*

It should be noted that, despite being aware of the matter in May 2019, the appellants presented the application for extension of time to lodge application for revision in the DLHT on 23<sup>rd</sup> May 2022. From their own joint affidavit, Misc. Land Application No.103 of 2022 was filed after three (3) years. However, in the entire affidavit and the submissions presented before the trial Tribunal, nothing was said as to what happened that prevented them from challenging the decision of the Ward Tribunal within the whole period of three (3) years.

It is trite law that for the time to be extended, the applicant must account for each day of the delay. In the present matter, the appellants failed totally to account for each day of the delay from May 2019 up to 29<sup>th</sup> May 2022. In fact, the delay for three (3) years was not only

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inordinate but also showed how the applicants were sloppy and negligent in taking action on their matter.

Before this court, the counsel for the appellants has also faulted the decision of the DLHT on the ground of illegality. In his assertion, he was of the view that the trial chairperson ought to have granted the application for extension of time on the ground of illegality, as the appellants were not party to the original proceedings. In the first place, I must clearly state at the outset that illegality which may be a ground for extension of time, must be apparent on the face of the impugned decision. The mere fact that the appellants were not party to the original proceedings cannot be illegality worth to grant extension of time. I am holding so because, if the same is considered an illegality worth to extend time, then there will be no time limit for almost all applications for revision like the one at hand. I am not prepared to open such wide door, which will eventually allow every person even the sloppy ones like the present appellants to use it.

I have also noted that in the application before the trial Tribunal, the ground of illegality was not raised, therefore, the said ground cannot help the appellants at this stage of appeal. Besides, the appellants never attached the impugned decision of the Ward Tribunal for Kongowe

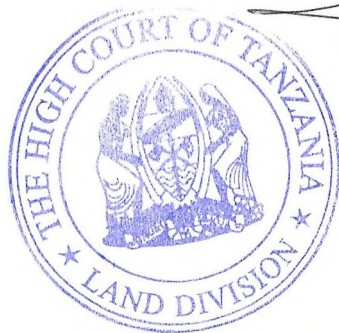




perhaps to let the DLHT trial Tribunal to have an opportunity to assess it. Failure to attach it to the application, entitles the court to draw inference that had they attached it, the court could not find any form of illegality apparent on the face of it.

In the final analysis, I find no merits in the appeal. It deserves to fail. In the upshot, the entire appeal is hereby dismissed with cost. Order accordingly.

**DATED at DAR ES SALAAM this 14<sup>th</sup> December 2023.**



  
L. HEMED

**JUDGE**