

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

MISC. LAND APPLICATION NO. 26454 OF 2023

(Arising From Land Case No. 175 of 2011, Land Division)

IBRAHIM ALLY YUSUPH MPORE (Administrator of the
Estate of the Late Salum Ally Yusuph Mpore).....**APPLICANT**

VERSUS

NALGIS ALLY YUSUPH MPORE.....**1ST RESPONDENT**

RAHMAT AHMAD JUMA.....**2ND RESPONDENT**

RULING

7th to 27th March, 2024

E.B. LUVANDA, J

The Applicant above named is seeking for an order for extension of time within which to file a notice of appeal against the judgment of this Court dated 12/05/2016 in the above matter.

In the affidavit in support, the Applicant grounded technical delay while taking essential steps to appeal and thereafter prosecuting Civil Appeal No. 83 of 2018 which was struck out by the Court of Appeal on 27/04/2021 following concession of his lawyer that it was filed out of time. He pleaded medical ground, arguing after striking out of his appeal he was attending

clinic at Temeke Municipal Hospital, as per annexure IM-6 and Muhimbili National Hospital, as per annexure IM-7.

The First Respondent, opposed the application by filing a counter affidavit, stating that the medical chits attached have failed to account or show if the Applicant was sick between 27/04/2021 when the impugned decision was struck out to 30/11/2023 when the present application was filed. She stated that failure to file notice was occasioned by negligence and inaction on the part of the Applicant.

The Applicant submitted that after the Civil Appeal was struck out, he made various efforts to seek other remedies, arguing it was unfortunately, was halted by sickness and he asserted to have been attended at Temeke Municipal Hospital and later referred to Muhimbili National Hospital for further treatment. He submitted that in consideration of records of proceedings which were before this Court, there is clearly an arguable case on appeal.

The Respondents did not file a reply.

On my part, in consideration of the reasons for the delay submitted by the Applicant to wit technical delay in both taking essential steps to appeal for

and in pursuit of Civil Appeal No. 83 of 2018 which was later struck out on 27/04/2021 by the Court of Appeal. And in view of the ground of ailment which was supported by the medical report from Muhimbili National Hospital where in a report dated 5/06/2023 two Urologist Specialist unanimously opined that the Applicant was first seen at urology clinic in May 2003, and presented with complaint of loin pain which has been on/off with no associated nausea or vomiting. I hold the view that the delay by the Applicant was well grounded

The Applicant is given a period of fourteen days to file a notice of appeal against the impugned decision, which will count from the date hereof.

The Application is granted. No order for costs.



E. B. LUVANDA
JUDGE
27/03/2024

Ruling delivered in the presence of the Applicant and in the absence of the Respondents.



E. B. LUVANDA
JUDGE
27/03/2024