

IN THE HIGH COURT OF THE UNITED REPUBLIC TANZANIA

(LAND DIVISION)

AT DAR ES SALAAM

MISC. LAND APPLICATION NO. 5327 OF 2024

(Originating from the Ruling in the Bill of Costs Number 12 of 2023 of the District Land and Housing Tribunal for Bagamoyo at Bagamoyo delivered on 6th February 2024)

TUNU HABIBU MANENO.....APPLICANT

VERSUS

AMINA ATHUMANI.....1ST RESPONDENT

COAST AUCTION MART COMPANY.....2ND RESPONDENT

RULING

31st May & 14th June 2024

L. HEMED, J.

In the Bill of Costs No.12 of 2023 at the District Land and Housing Tribunal for Bagamoyo District at Bagamoyo, the Applicant herein, **Tunu Habibu Maneno** was the judgment debtor. By the Ruling delivered on 6th February 2024, the Applicant was taxed to pay the decree holders the total amount of Tshs. 5,026,000/= . The applicant was unhappy with the awarded amount but she could not challenge in time until on 13th March 2024 when she lodged the instant application under Order 8(1) of the



Advocates Remuneration Order, GN. No. 264 of 2015 seeking for the following orders, namely:-

"a) That this Honourable Court be pleased to grant extension of time within which to file a Reference.

b) Any other orders this honourable court may deem fit and just to grant."

The application has been supported by the affidavit of the Applicant and has been contested by the counter affidavit deponed by one **Amina Athumani**, the 1st Respondent. It was directed that the matter be disposed of by way of written submissions. Parties complied with the filing schedule promptly.

I have carefully gone through the rival affidavits and submissions and here, I have to ascertain whether the application is meritorious. This being an application for extension of time, the applicant's duty is to demonstrate good and or sufficient cause for the delay. What constitutes good cause cannot be laid down by any hard and fast rules. The term "**good cause**" is relative and is dependent upon the party seeking extension of time to provide the relevant material in order to move the court to exercise its discretion. In **Lyamuya Constructions Company Limited vs The Registered Trustee of Young Women's Christian Association of**



Tanzania, Civil Application No. 2 of 2010, the Court of Appeal of Tanzania laid down guideline for consideration when determining applications for extension of time. The said guideline is as follows:-

"(a) The applicant must account for all the period of the delay

(b) The delay should not be inordinate

(c) The applicant must show diligence, and not apathy, negligence or sloppiness in the prosecution of the action he intends to take.

*(d) If the **court feels that there are other sufficient reasons**, such as the existence of a point of law of sufficient importance..." [Emphasis added]*

The above guidelines given by the Court of Appeal shows that categories of good or sufficient cause for extension of time are never closed. This mean that what constitute a good cause is left into the discretion power of the court to decide on case by case basis. In the instant matter the Applicant has relied on the following grounds:-

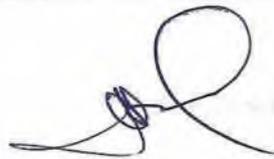
- i. Delay in supplying the copy of a Ruling and drawn order;
- ii. Sickness on the part of the Applicant; and
- iii. Looking for legal aid.



Upon examination of the affidavit and submissions I have realized that the impugned Ruling of the trial Tribunal was delivered on 6th February 2024 and on 16th February 2024 she wrote a letter requesting to be supplied with copies of the Ruling and drawn orders. The records of the matter at the trial Tribunal show that the impugned ruling was certified on 11th March 2024 and supplied to the Applicant on the same date. The instant Application was then lodged on 13th of March 2024 only two days after being availed with the copies of the ruling and drawn order.

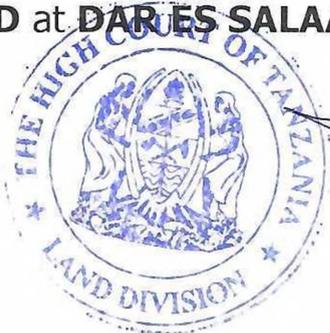
From what I have observed in the record, the delay in filing reference to challenge the ruling on bill of costs was not occasioned by the negligence act of the applicant. It was due to the failure of the trial Tribunal to supply to her the copies of the impugned ruling and drawn order. I have also noted that soon after having got the copies, she diligently filed the instant application seeking for extension of time. Having found that the delay was caused by the failure of the trial Tribunal to supply her copies of impugned ruling timely, I cannot labour to determine the other grounds because the 1st ground suffice to dispose the application.

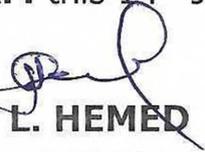
In the final analysis, I find merits in the application and proceed to grant it with no orders as to costs. The Applicant to file the intended

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reference within 14 days. Order accordingly.

DATED at DAR ES SALAAM this 14th June 2024.




L. HEMED
JUDGE