

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

(ARUSHA DISTRICT REGISTRY)

AT ARUSHA

MISC LAND APPLICATION NO. 37 OF 2018

ABDALLAH SAID ATHUMAN APPLICANT

VERSUS

SOMO SAID RESPONDENT

MAIGE, J

RULING

This is an application for extension of time to lodge a notice of appeal. It is against the a judgment of this Court in Land Appeal No. 26 of 2016 which was delivered on 28th July 2017. The application is preferred under section 11(1) of the Appellate Jurisdiction Act (Cap. 141 R.E. 2002). Abdallah Said Athuman, the applicant, has deposed an affidavit to support the application.

The reasons for the delay are narrated in paragraphs 4, 5 and 6 of the affidavit. It is the applicant's deposition that on 31st August 2017 just four days after the date of the pronouncement of the judgment, he requested

for copies of judgment and decree to the Court. Before he had lodged a notice of appeal, it is further in his deposition, he became sick and as a result he was, on 23rd August 2017 admitted to Hospital for seven days. He has exhibited in his affidavit and marked "ADA" what he claims to be outpatient record. He claims further that his earlier application vide Miscellaneous Application No. 155 of 2016 was struck out on 20th March 2018 for the reason of being brought under wrong provision of the law. He has invited the Court to consider the period of the prosecution of that application in determining the application.

Both in his counter affidavit and submissions through his advocate Mr. John Shirima, the applicant has urged the Court to hold that the applicant has not demonstrated sufficient cause for extension of time. I was referred a number of authorities to support the view that an application for extension of time cannot be granted if sufficient cause is not established. Among the authorities are **INSPECTOR SADICK AND OTHERS VS. GERALD NKYA** (1997) TLR 290 and **MAWJI VS LALJI AND OTHERS (1990-1994) EA 337**.

On his part, the applicant who was unrepresented, was of the contention that sufficient cause to justify extension of time has been demonstrated. He submits that his sickness subsequent to the pronouncement of the judgment and his *bonafide* prosecution of other proceedings constitute sufficient cause. He urged the Court to also consider the fact that the applicant is a layman and was not represented in the dismissed appeal and subsequent application.

Upon examining the affidavit and on consideration of the rival submissions, I am of the firm opinion that this application is devoid of any merit and deserves an order for dismissal. I will explain.

The decision sought to be appealed against was delivered on 28th July 2017. The admission of the applicant into Hospital according to his own affidavit, was on 23rd August 2017. He was discharged on 29.8.2017. The instant application has been filed on 4.4.2018. It is after the expiry of more than eight months. The applicant has attempted to justify the said period on account that he was prosecuting another application which was struck out on 20th March 2018. Neither a copy of the application nor the order attaching the same has been exhibited in the affidavit. In the absence of them, how would the Court be in a position to ascertain if at all the said application was filed and when was it filed? As that is not enough, what the applicant claims to have previously prosecuted is "Miscellaneous Application No. 155 of 2016" according to the factual deposition in paragraph 8 of the affidavit. In this, I submit, the application contains seed of its destruction. The decision sought to be appealed against having been delivered on 28th July 2017, it is more than improbable for the step to challenge the same to be initiated in 2016, the period when the judgment was yet to be pronounced.

It is for the foregoing reasons that I find this application without merit. It is accordingly dismissed with costs.

It is so ordered.

MAIGE.I
JUDGE
27.11.2018

Date: 27.11.2018

Coram: Hon. J.F. Nkwabi

Applicant: present

Respondent: present

B/S Mariam

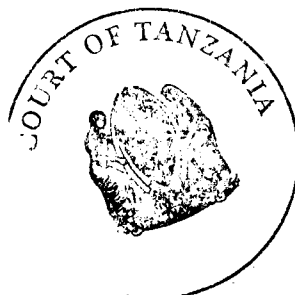
Court: Ruling delivered.

SGD: J. F. NKWABI

DEPUTY REGISTRAR

27.11.2018

I hereby certify this to be a true copy of the Original.




S. M. KULITA
DEPUTY REGISTRAR

ARUSHA

30/11/2018