

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

AT TABORA

LAND APPEAL NO. 4 OF 2020

*(From the decision of the District Land and Housing Tribunal of
Tabora District at Tabora in Msc Land Application No. 266 of 2019)*

JULIUS SHABANI UGOLOLE ----- APPELLANT

VERSUS

SAID HINYULA LUBIBI ----- RESPONDENT

JUDGMENT

26/02 & 19/03/2021

BAHATI, J.:

This is an appeal originating from the decisions of District Land and Housing Tribunal of Tabora in Miscellaneous Land Application No. 266 of 2019 whereby the appellant's application for extension of time to file an appeal against the decision of Ichemba Ward Tribunal in Land Dispute No. 12 of 2019 was dismissed by the District Land and Housing Tribunal hence this appeal.

The appellant paraded five grounds of appeal couched thus:-

- 1. The learned trial Chairman grossly erred in law and fact in dismissing the application for extension of time without assigning sufficient reasons.*
- 2. The learned trial Chairman grossly erred in law and fact in dealt (sic) at length for the ground of attachment of Medical Chit or*

Police Report although there was the information of Government Local Leader Letter who proved beyond reasonable doubt the applicant's accident.

3. The learned trial Chairman grossly erred in law and fact for refused and not recorded exhibit of Government Local leader letter adduced by the appellant.

4. The Learned trial Chairman grossly erred in law and fact for holding that the appellant has no tangible cause for the delay to appeal within the prescribed time.

5. The ruling and drawn order of the Tribunal was delivered on 21/02/2020 therefore the appeal is in time.

I have narrowed down the first four grounds leveled by the appellant into one issue that this Court has to answer *whether the trial Chairman gave sufficient reasons for dismissing the application.*

It is a common practice in our jurisdiction that a party seeking an extension of time to file an appeal has to show a good and sufficient cause for his delay. The position of the law is clear that the court may for any reasonable or sufficient cause extend the period of limitation for the institution of an appeal or application. That position of the law has been expounded in the case of **Mumello V Bank of TANZANIA (2006) IEA 227 (CAT)** where it is a settled principle of the 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.

In the instant matter, the record indeed shows the 45 days set by law to file an appeal to the District Land and Housing Tribunal had expired and that is what prompted the appellant to apply to enlargement of time. After hearing of the application, the Tribunal was not convinced by reasons tabled by the appellant that he got an accident that failed him to file an appeal on time.

In Lyamuya Construction Company Ltd vs Board of Registered Trustees of Young Women's Christian Association of Tanzania Civil Application No 2 of 2010, the court restated the following guidelines for the grant of extension of time: -

- (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 sloppiness in the prosecution of the action that 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 such as the illegality of the decision sought to be challenged.

I concur with the Trial Tribunal Chairman that, the reasons for the delay adduced by the appellant are not convincing because no medical record or police record was tendered in court to prove that there occurred an accident in which the appellant was involved.

Though, this court has gone far that since the appellant is a layperson there are huge possibilities that he was involved in an accident but failed to keep a record that would help in his case. For the interest of justice, I find that granting extension of time to the appellant will never prejudice the respondent and I feel persuaded to allow the appeal so that the dispute between the two may be disposed of on merit.

In the light of the foregoing reason, I allow the appeal and further order that, the respective appeal to the District Land and Housing Tribunal must be filed not later than forty-five (45) days from the date of this order. Costs to follow the event.

Order accordingly.

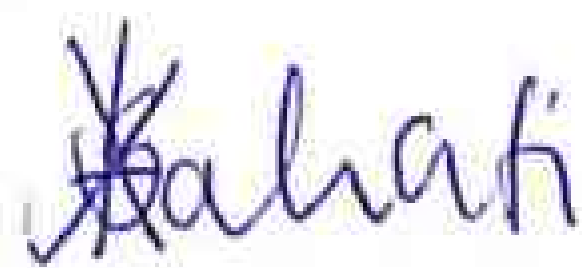
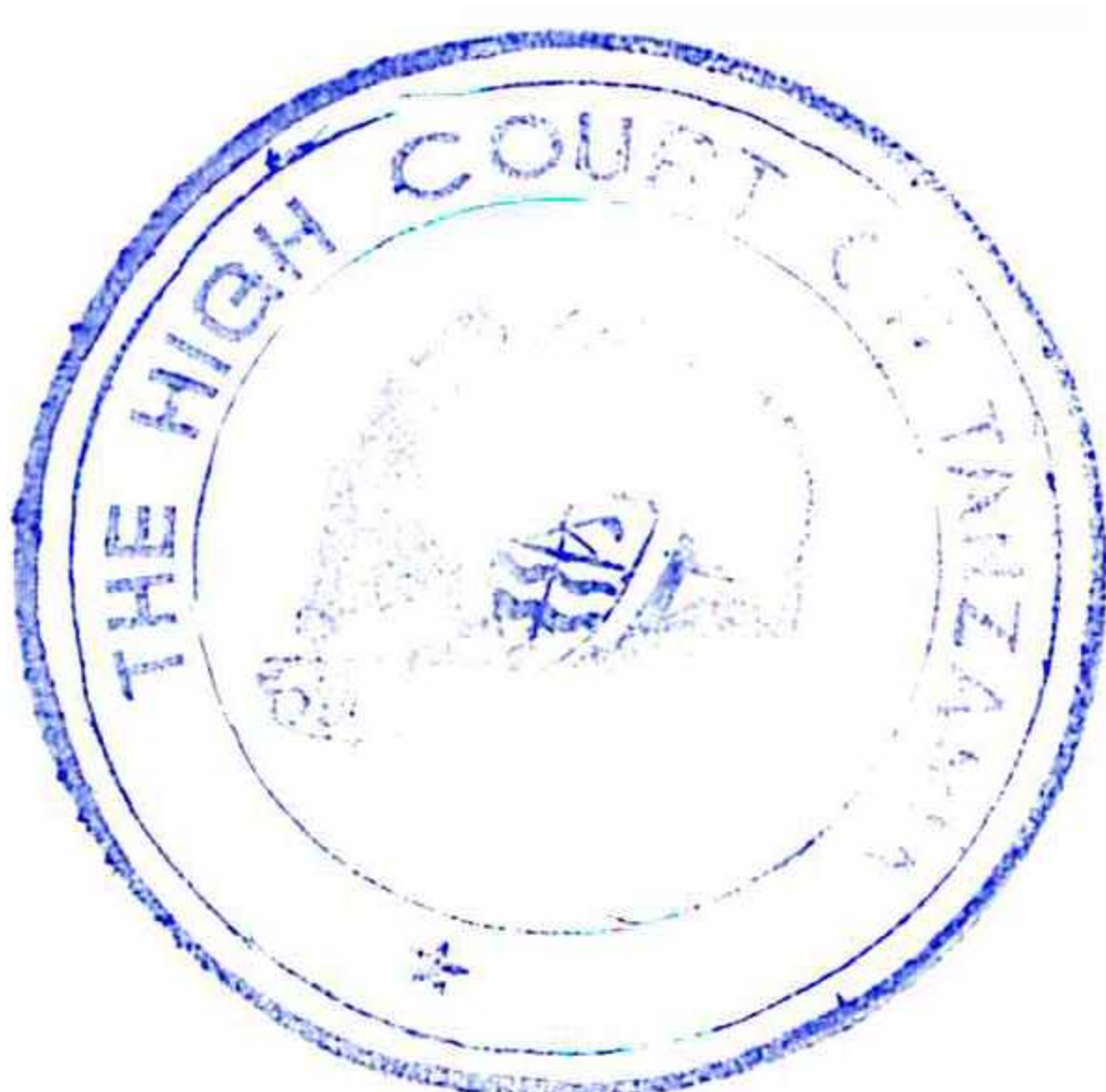


A. A. BAHATI

JUDGE

19/03/2021

Judgment delivered under my hand and seal of the court, this 19th day March, 2021 in the presence of both parties.



A. A. BAHATI

JUDGE

19/03/2021

Right of appeal is explained.



A. A. BAHATI

JUDGE

19/03/2021

