

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

MUSOMA DISTRICT REGISTRY

AT MUSOMA

MISC. LAND APPLICATION NO. 41 OF 2022

**(Arising from the decision of this Court in Misc. Land Appeal No. 24
of 2021)**

BETWEEN

DALMAS JONYO APPLICANT

VERSUS

SAMSON OWINO RESPONDENT

RULING

31st October & 8th November, 2022

M. L. KOMBA, J.

Before this Court, the applicant has filed the present application seeking for the following orders;

- 1. That the Court be pleased to grant leave to lodge application for review out of time.*
- 2. Costs be provided for.*
- 3. Any other relief (s) which the court deemed fit and just to grant.*

The application brought by way of chamber summons made under Section 14 (1) of the Law of Limitation Act [Cap 89 R.E 2019] and it is accompanied by an affidavit deposed by the applicant. The respondent did file a counter affidavit to contest the application.

A brief fact giving rise to the present application can be summarized as follow; that the applicant filed an appeal before this court (Land Appeal No. 2 of 2021) to challenge the decision of the District Land and Housing Tribunal for Tarime at Tarime (the DLHT) in Land Appeal No. 238 of 2019 which was decided in favour of the respondent. This court dismissed the appeal of the applicant for being out of time.

The applicant, unsuccessful, lodged an application for extension of time within which to lodge his appeal out of time (Misc. Land Application No. 24 of 2021). He then, lodged an application for review (Misc. Land Application No. 2 of 2022) but the same bear no fruits as it ended up struck out for being out of time.

Now, the applicant has lodged an application at hand seeking this court to extend the time within which he can file an application for review out of time.

During the day of hearing of this application, each party stood solo, unrepresented.

Submitting in support of his application, the applicant averred that the reason for his delay was a confusion he got following his mother's death which occurred in 17th October, 2021 and buried on 26th October 2021.

Responding, the respondent argued the court not to grant the application since the applicant has not assigned any reason for delay.

In rejoinder, the applicant prayed the court to grant the extension of time so that he can claim back his land which was unlawful taken by the respondent.

I have heard both parties' submissions and thereafter, gone through the application record. The issue for determination is whether the applicant has assigned good reason (s) suffice for this Court to grant extension of time.

What constituting good or sufficient reason are not firmly explained or listed. They are determined basing on the circumstances of each case. However, the law is settled that, in considering whether to grant the extension of time or otherwise, the court takes into account the factors including: (a) the length of the delay; (b) whether the applicant have accounted for all the period of delay and demonstrated diligence and not laziness, negligence or sloppiness in taking the required step; (c) whether the Court finds other sufficient reasons, such as the existence of a point of law of sufficient importance, like the illegality of the decision sought to be challenged. There is a periphrasis of authorities on that position, including the case of **Damas Assesy and Another vs Raymond Mgonda Paula and 8 Others**, Civil Application No. 232/17 of 2018, CAT at Dar es Salaam

(unreported) and **Lyamuya Construction Company Ltd v. Board of Registered Trustee of Young Women's Christian Association of Tanzania**, Civil Application No. 2 of 2010 (unreported).

In present application, the sole reason for the applicant's delay is that he was confused by his mother's death which occurred on 17th October, 2021 and buried on 26th October, 2021. However, this application was filed on 12th July, 2022 and the impugned decision which the applicant sought its review was delivered on 17th September, 2021, that is more than a year has lapsed. Thus, even if I take into consideration the days applicant claimed to be confused by his mother's death, still he left a lot of days unaccounted.

In the case of **Bushiri Hassan vs Latifa Lukio Mashayo**, Civil Application No. 3 of 2007 (all unreported), the Court of Appeal underscored on the requirement of accounting each day of delay by holding that:

"... delay of even a single day, has to be accounted for otherwise there would be no point of having rules prescribing periods within which certain steps have to be taken."

Having gone through the affidavit in supporting of the application and the submission made by the applicant, I am satisfied that the applicant has not accounted for each day of delay nor assigned any other reason for this court to consider in granting extension of time.

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In the light of the above, I am persuaded that the applicant has failed to demonstrate good and sufficient cause for the delay. I dismiss the application for want of merit. I do so with costs.

It is so ordered.




M. L. KOMBA

JUDGE

8th November, 2022