

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

THE SUB-REGISTRY OF TABORA

AT TABORA

MISC. LAND APPLICATION NO. 35 OF 2022

(Arising from Land Application No. 28 of 2019 Tabora District Land and Housing Tribunal)

DOTO HASSANI.....1ST APPLICANT

FESTO IBRAHIM.....2ND APPLICANT

MIRAJI KAGOMA.....3RD APPLICANT

MAGAYANE WILA.....4TH APPLICANT

VERSUS

MOHAMED SHABANI.....RESPONDENT

RULING

Date: 28/6/2023 & 28/6/2023

BAHATI SALEMA, J.:

The applicants above, by way of chamber application supported by the affidavit, moves this court under section 41(1) of the Land Disputes Courts Act, Cap. 216 of 2002 as amended by section 41(2) of the Written Laws Miscellaneous Amendment Act. No.2 of 2010, Cap. 216 of the law and any other enabling provision of law to extend time to enable him to appeal against the Land Application No.28 of 2019 Tabora District Land and Housing Tribunal.

The application is supported by an affidavit of the applicants. The respondent filed his affidavit in opposition.

When the matter came for hearing, the 1st, 3rd and 4th applicants were absent; the 2nd applicant was represented by Mr. Timothy Sichilima, learned counsel whereas the respondent was self-represented.

Submitting in support of the affidavit Mr. Sichilima prayed to this court for an extension of time since the copy of the judgment delivered on 18/2/2022 was received on 6/6/2022 after the expiry of the time for appeal despite writing a letter on 4/3/2022 requesting for the judgment. He prayed to this court to grant the application.

In his response, the respondent did not contest.

Having heard from both parties, the issue is whether the application is merited.

Though this application is not opposed, this court has to evaluate whether or not the ground advanced by the applicant suffices to warrant this court to allow the application. It is trite law that powers to extend the time is discretionary and must be exercised judiciously as opposed to personal whims, sympathy, empathy, or sentiment. I am guided by the holdings in of **Lyamuya Construction Company Ltd vs Board of Registered Trustees of Young Women's Christian Association of Tanzania**, Civil Application No. 2 of 2010 CAT at Dar es Salaam where the Court of Appeal of Tanzania listed for consideration on applications for the grant of extension of time: -

(a) The applicant must account for all the periods 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.*

Having gone through the said affidavit, especially in paragraphs 2,3,4 and 5 of the affidavit, the reason advanced by the applicant for the delay in providing copies of the judgment by the trial tribunal, form a good ground enough for this court to grant the application.

In the upshot and for the foregoing reason, I have every reason to grant this application as I hereby do. The intended application shall be filed in court within 30 days from the date of this ruling.

Order accordingly.



A. BAHATI SALEMA
JUDGE
28/06/2023

Court: Judgment delivered in presence of both parties.



A. BAHATI SALEMA
JUDGE
28/06/2023

Right of Appeal fully explained.



A. Bahati
A. BAHATI SALEMA
JUDGE
28/06/2023