

**IN THE HIGH COURT OF UNITED REPUBLIC OF TANZANIA  
DODOMA DISTRICT REGISTRY  
AT DODOMA**

**MISCELLANEOUS LAND APPLICATION NO. 119 OF 2019**

(Arising from the District Land and Housing Tribunal for Singida in Misc. Land  
Application No. 96 of 2016)

**FRANK PETRO .....APPLICANT**

**Versus**

**JACKSON SALEMA .....RESPONDENT**

**RULING**

Date of Last Order: 03<sup>rd</sup> July 2023.

Date of Ruling: 14<sup>th</sup> July 2023.

**MASABO, J:-**

By a chamber summons filed under section 14(1) of the Law of Limitation Act Cap. 89 R.E 2019, a leave for extension of time is sought to enable the applicant to file his appeal out of time against the decision of the District Land and Housing Tribunal (the DLHT) in Miscellaneous Land Application No. 96 of 2016. Supporting the application is an affidavit sworn by one Frank Petro, the applicant. In the affidavit, it is deponed that, the applicant filed Miscellaneous Land Application No. 96 of 2016 before the DLHT praying the tribunal to grant him an extension of time within which to file an application for restoration of his application for execution, Execution No. 66 of 2014, which was dismissed for want of prosecution. The application ended futile after it was dismissed by the DLHT on 20/8/2018. He has deponed that, he did not timely file the appeal as the dismissal order was not timely furnished on him. Hence, this application.

In the viva voce hearing, which proceeded *ex parte* the respondent after he declined service, the applicant who appeared in person unrepresented, briefly submitted that the decision he intend to challenge if the leave is granted was delivered on 20<sup>th</sup> August 2018. He proceeded that; he filed the present application on 14<sup>th</sup> November 2019. On the reasons why he did not timely file the application, he submitted that, the sole reason that inhibited him from filling his application on time is the delay in being furnished with the dismissal order. Although he had timely written letters requesting for the same, it was not furnished on him until on 13<sup>th</sup> September 2019 when it was finally furnished to him. Soon thereafter, he filed the present application. In consequence, he prayed that leave for extension of time be granted so that he can appeal out of the time prescribed by the law.

I have dispassionately considered the above submission alongside the affidavit bracing the chamber summons and its supporting documents. Section 41(2) of the Land Disputes Courts Act, Cap 216 RE 2019, sets 45 days as the time limit within which a party aggrieved by a decision of the District Land and Housing Tribunal is to file his appeal in this court. The duration may be enlarged under section 14(1) of the Law of Limitation Act, (supra) which clothes this court with discretionary powers to enlarge the time to allow the applicant to appeal out of time if it is demonstrated to its satisfaction that, the applicant's failure to file the appeal or application on time was due to a good cause. Therefore, the sole question for determination is whether a good cause upon which to invoke the discretionary powers of this court to extend the time has been demonstrated.

The law on extension of time is well settled. Much as there is no universal definition of the term good cause, the same is determined by looking at; the length of delay, the reasons for the delay, the degree of prejudice the respondent stands to suffer if time is extended, whether the applicant was diligent, whether there is point of law of sufficient importance such as the illegality of the decision sought to be challenged and the overall importance of complying with the prescribed timelines (See **Lyamuya Construction Company Ltd vs. Board of Trustees of Young Women's Christian Association of Tanzania**, Civil Application No. 2 of 2010, CAT (unreported)).

In the present case, the ruling intended to be challenged if this application succeeds was delivered on 20<sup>th</sup> August 2018 whereas the present application was filed a year later on 14<sup>th</sup> September 2019. This is an inordinate delay and inexcusable unless a good cause is demonstrated. The sole reason for delay advanced by the applicant in support of his application is the delay in being furnished with a copy of the ruling he intends to challenge. Although not stated, unsurprisingly because of being lay and unrepresented, the applicant's ground for delay seems to be premised on section 19(2) of the Law of Limitation Act, Cap 89 RE 2019, which enjoins the court when computing the time for delay, to exclude from the computation, the days by which the applicant was waiting to be furnished with the copy of the ruling or judgment he intends to appeal against. The reason for exclusion of such days is as stated in **Mary Kimaro vs. Khalfan Mohamed** [1995] TLR 202 where it was held *inter alia* that, a copy of proceedings and judgment are necessary for

purposes of framing a sound petition of appeal and in its absence, the aggrieved party may not frame his appeal. And for that reason, the delay in being furnished with copies of the proceedings and judgment suffice as a good ground for extending the time within which to appeal (see **Juma Posanyi Madati vs. Hambasia N’kella Maeda**, Civil Application No. 230 of 2016, CAT (unreported)).

While reading the record to ascertain the ground advanced by the applicant in support of his application, I have observed that, the ruling intended to be appealed against if the present application succeeds was delivered on 20<sup>th</sup> August 2018. On 11<sup>th</sup> September 2018, the applicant requested to be furnished with a copy of the ruling. Thereafter, the record is silent. It does not reveal whether there was a subsequent correspondence on the same. In his oral submission, the applicant has stated that a copy of ruling was supplied to him on 13<sup>th</sup> September 2019. Much as this fact is not deposed in his affidavit, the fact that the bears signature dated 13/9/2019 and the drawn order appear to have been extracted on the same date, suggest that indeed the ruling and drawn order were belatedly furnished to the applicant on or after 13/9/2019 when they became ready. In the foregoing, I find the period between 20/8/2018 and 13/9/2019, excusable under section 19(2) of the Law of Limitation Act and the authorities above stated.

My further perusal of the record has revealed that, upon obtaining the copy of the ruling, the applicant did not immediately present his appeal or file the present application. He waited until on 14<sup>th</sup> November 2019 when he filed the present application. By then, 60 days had lapsed since

he obtained the copy of the ruling which entails that, the applicant was late by 15 days. It is a settled legal principle that in applications for extension of time, delay of even a single day must be accounted for. In **Kibo Hotel Kilimanjaro Ltd vs Treasury Registrar & Another** (Civil Application No. 502 of 2020) [2021] TZCA 80 [Tanzlii], the Applicant just as the applicant herein had not accounted for 15 days of delay. Determining whether such delay was excusable, the Court of Appeal held that;

"It is my considered view that the applicant ought to have accounted for the delay of 15 days after being supplied with the copy of the proceedings of the High Court. According to the applicant, he used the fifteen days to prepare for this application. The law is clear that in case of the delay to do a certain act, the applicant should account for each day of delay. The authorities of the Court to that effect are many, one of them include **Hassan Bushiri v. Latifa Lukio Mashayo**, Civil Application No. 3 of 2007 (unreported) where the Court stated:

"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". [See also, **Lyamuya Construction Company Ltd** (supra), **Zitto Zuberi Kabwe and Others** (supra) and **Bariki Israel v. R**, Criminal Application No. 4 of 2011 (unreported)].

According to these authorities, each day of delay must be accounted for and the delay should not be inordinate. In the case at hand, the applicant only stated that he was preparing this application for fifteen days. It is my considered view that this line of reasoning is too casual because the applicant has not explained how he used the whole of fifteen days to prepare this application. I therefore find that the applicant has failed to account for the whole period of the delay.

On the strength of this authority and considering that the applicant herein has rendered no piece of explanation of how he spent the 15 days, it is obvious that the present application cannot sail. Accordingly, the application is dismissed with no orders as to costs.

**DATED at DODOMA** this 14<sup>th</sup> day of July, 2023.



A handwritten signature in blue ink, appearing to be "J.L. MASABO", is written over a circular stamp.

**J.L. MASABO**  
**JUDGE**