

IN THE HIGH COURT OF TANZANIA

[LAND DIVISION]

AT IRINGA

MISCELLANEOUS LAND APPLICATION NO. 1 OF 2013

(From the decision of the Iringa District Land and

Housing Tribunal in Appeal No. 44 of 2011

Original Land Case Application No. 3 of 2011

Of Kihesa Ward Tribunal)

ABDALLAH MBUMA..... APPLICANT

VERSUS

GABRIEL LUGALA RESPONDENT

30/5/2014 & 22/8/2014

R U L I N G

MADAM SHANGALI, J.

The applicant has filed this application based under Section 38 (1) of the Land Disputes Court Act No. 2 of 2002 seeking for extension of time to file his appeal to this court out of time against the decision of the Iringa District Land and Housing Tribunal in Appeal No. 44 of 2011 originating from Land Case Application No. 3 of 2011 before Kihesa Ward Tribunal.

The application was duly supported by the affidavit deponed by the applicant in person.

On 25th March, 2014 the applicant who appeared in person and unrepresented and the respondent who appeared in person and represented by Mr. Musa Mhagama, learned advocate prayed for leave to argue the application by way of written submissions. This court granted the leave and a schedule for filing written submission was agreed by the parties and accordingly issued by this court. In that schedule the applicant was required to file his written submission on 16/04/2014 while the respondent was to file his reply to the submission on 30/4/2014. The applicant was required to make and file his rejoinder by 8/5/2014 and the matter was set for mention on 15/5/2014 to set a date for ruling.

For no apparent reason the applicant did not take any action and no written submission was filed as directed in the order issued by this court on 25/3/2014. On 30/5/2014, the respondent's advocate asked this court to dismiss the application because the applicant has failed to comply with the order of filing a written submission an act which amounts to non-appearance of the party on the date fixed for hearing.

In response the applicant casually stated that he was sick and bereaved. He prayed for more time to prepare and

file his written submission. He did not attempt to prove or give any evidence to substantiate his claims/allegations of sickness.

Litigants must always understand that court orders are made to be respected and complied with. The order of this court dated 25/3/2014 was made with the purpose of regulating the hearing proceedings by way of written submissions within a prescribed time. In the case of **Mankobrand Versus Miroslav Katik and another** (HC) Civil Case No. 321 of 1997, Dar-es-Salaam Registry (*unreported*), the court made a remarkable observation about the orders of the court when it said;

“..... They are meant to command parties to act within a time frame fixed by the court. If the parties are to act in total disregard to those orders then court business will be rendered uncertain; and that will not be good for the efficient administration of justice”

In spite of the total disregard of the court's order, the applicant did not even attempt to initiate any steps to apply for extension of time from 16/4/2014 when his time expired. He stayed aloof to 30/5/2014 when he reluctantly said that he was bereaved and sick.

It must also be noted that the practice of filing written

submissions is tantamount to a hearing of the case and therefore failure to comply with the order of filing written submission without lawful cause amounts to non-appearance or want of prosecution – See cases of **Hiday Zuberi Vs. Bogwe Mbwana**, (PC) Civil Appeal No. 98 of 2003, Dar-es-Salaam (unreported); **Buyamba John Vs. Adili Bank Corporation Ltd & Another**, Civil Case No. 146 of 2000 Dar-es-Salaam Registry (Unreported) and **Fatuma Khassim Vs. Tabu Proper** (PC) Criminal Appeal No. 12/2002 High Court Dar es Salaam, Registry (Unreported).

In my considered opinion the applicant is not serious with his application. I have perused his affidavit attached with the chamber summons and find that even the medical chits mentioned therein were not attached/annexed to the affidavit. The applicant has only himself to blame for his inaction attitude coupled with laxness and failure to adhere to the order of the court.

As a result this application is hereby dismissed with costs.

M. S. SHANGALI

JUDGE

22/8/2014

Ruling delivered today 22/8/2014 in the presence of the respondent in person and in the absence of the applicant. The applicant to be supplied with a copy of the ruling

M. S. SHANGALI

JUDGE

22/8/2014