

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(LAND DIVISION)**

**AT DAR ES SALAAM**

**MISC. LAND APPLICATION NO. 574 OF 2019**

*(Originating from District Land and Housing Tribunal for Morogoro in  
Land Appeal No. 130 of 2014)*

**RAMADHANI MREMA.....APPLICANT**

**VERSUS**

**VICTORIA SADUKA..... RESPONDENT**

*Date of the ruling 20/11/2020*

*Last order 9/10/2020*

**RULING**

**I. MAIGE, J**

This is an application for extension of time to appeal against the decision of District Land and Housing Tribunal for Morogoro as per Hon. Makwandi (CHAIRMAN) dismissing an appeal against the decision of the ward tribunal for Kihonda. The application is brought under section 38(1) of the **Land Disputes Courts Act No.2 of 2002**. It is premised on the affidavit of Professor Cyriacus Binamungu, learned advocate for the applicant.

The judgment of the first appellate tribunal was delivered on 8<sup>th</sup> December 2015. This application has been filed on 24<sup>th</sup> October 2019. There is an interval of hardly four years while the time limit for pursuing the intended appeal was 45 days from the date of the judgment. Come what may the delay involved is inordinate.

The applicant justifies the delay on account that he was awaiting for copies of the judgment and proceedings. The judgment was supplied to the applicant and his counsel according to the facts in paragraph 3 of the affidavit on 8<sup>th</sup> January 2016 but proceedings were not availed to him for the reason of misplacement of the court file. By a simple mathematical calculation, it is more than 40 months before the institution of this application.

The applicant claims to have been supplied with the said proceedings on 11<sup>th</sup> September 2019 despite several follows up.

The applicant further justifies the application on account of illegality involved in the intended appeal. He clarifies that, the judgment does not articulate clearly what the assessors had opined.

Besides, the respondent though not the administrator of the estate of her late husband was declared the lawful owner of the suit property.

Miss. Victoria Mandari, learned advocate deposed a counter affidavit for and on behalf of the respondent. She denied the facts in the affidavit and stated that sufficient cause has not been demonstrated.

The argument for and against the application was made by way of written submissions. Mr. Byamungu in the first place adopted the facts in the affidavit and urged the Court to hold that sufficient cause exists. On illegality, the counsel blames the presiding chairperson in holding that the respondent was the administrator of the estate while there was no concrete evidence in support thereof. On the second aspect, he submits that the judgment was illegal because the opinions of assessors were not considered.

On her part, Miss. Mandari submits that sufficient cause has not been demonstrated. Instead, the affidavit exhibits elements of

negligence. On illegality, she submits that it has not been demonstrated. The respondent adduced sufficient evidence on locus standi from the level of the trial tribunal. On assessors, she submits that their opinions are reflected in the judgments of the first appellate tribunal.

On my part, I have examined the affidavit, counter affidavit and rival submissions. With respect, I am convinced that the affidavit does not justify the inordinate delay of more than three years. The applicant admits to have been supplied with copies of judgment and decree in January 2016. A reasonable court would not expect him to be stagnant for such a long time just awaiting for copies of appeal proceedings. In any event appeals to the High Court in matters originating from ward tribunal are lodged at the District Land and Housing Tribunal. There is no requirement for judgment and decree. Neither court proceedings.

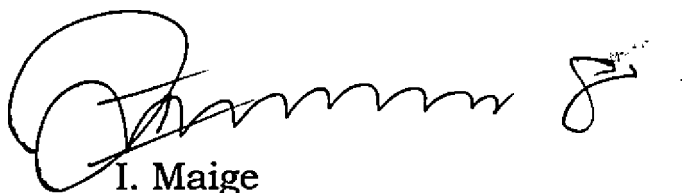
The applicant claims that the court file was misplaced for sometime. He does not disclose the source of such information. Neither has he caused any registry officer to depose a supplementary affidavit to

support the claim. Misplacement of a court file for such a long is not a minor issue. It is a serious issue which cannot be proved without there being a deposition from a registry officer or a court officer. I will not there accept such a claim.

The issue of *locus standi*, I have noted, is not apparent on the face of the judgment of the first appellate tribunal. It cannot be determined without examining the judgments and proceedings of both the tribunals. That would therefore not amount to illegality but an error of law or fact. It cannot, in my view, be the basis for extension of time. The same applies for the issue of opinions of assessors because it is reflected in the judgment.

On that account therefore I find the application without merit. It is dismissed with costs.

It is so ordered.

A handwritten signature in black ink, appearing to be 'I. Maige', written in a cursive style.

I. Maige

**JUDGE**

**20/11/2020**

**Date: 20/11/2020**

**Coram:** Hon. S.H. Simfukwe - DR

For the Applicant: Mr. Sylvester Mgonja, Advocate


For the Respondent: Mr. Godlisten Isoe, Advocate

**RMA:** Bukuku

**COURT:**

Ruling delivered this 20<sup>th</sup> day of November, 2020 in the presence of both sides.



  
S.H. Simfukwe  
**DEPUTY REGISTRAR**  
**20/11/2020**