

**IN THE HIGH COURT OF TANZANIA**

**IN THE DISTRICT REGISTRY**

**AT MWANZA**

**MISCELLANEOUS LAND CASE APPLICATION NO. 94 OF 2018**

(Arising from HC Mwanza Misc. Land Application No. 113 of 2014)

**MASATO MANYAMA ..... APPLICANT**

**VERSUS**

**LUSHAMBA VILLAGE COUNCIL ..... RESPONDENT**

**RULING**

09/10/2018 & 24/01/2019

**RUMANYIKA, J.:**

Application, mainly for extension of time within which, with respect to decision of 26/06/2014 Masato Manyama (the applicant) to file a notice of appeal and application for a certificate on point of law is brought **under Section 11 (1) of the Appellate Jurisdiction Act Cap. 141 R.E. 2002 and Rule 10 of Tanzania Court of Appeal Rule, 2009**. It is supported by a six paragraph affidavit of Masato Manyama. Whose contents essentially he adopted at the hearing.

In summary, that upon this court handing down the impugned decision on 26/06/2014, his application for leave to appeal to the Court of Appeal of Tanzania refused on 22/02/2016, and, wrongly though for a 2<sup>nd</sup> bite going to the Court of Appeal, but also lost the war and battle on

02/04/2018, yet still the applicant is here for the above said two reliefs/orders. That delay wasn't his fault. That is it.

The respondents' chair one Yuda Busambilo just submitted that the application was devoid of merits. That is all.

The issue, and it is trite law is whether the applicant has assigned a sufficient ground for extension of time.

The applicant may have had suffered consequences of technical delay. Namely wrongly though having lost much of his time in court corridors. Like the Court of Appeal of Tanzania held, appeal against refusal by this court of leave to appeal, shouldn't have gone there for a 2<sup>nd</sup> bite. It is very unfortunate and trite law that technical delay no longer constituted good cause or sufficient ground for extension of time.

I would additionally hold that if due to ignorance of law, going for a wrong forum or as case may be taking wrong steps, whether by lay people or otherwise was excuse, majority would have pleaded it. Even assuming that there were two sets of the law, one for lay people and the other one for non-lay people (which I think cannot be), from the records looking at all the documents purportedly drawn and filed by him personally, behind him there should have been a lawyer or a person having knowledge and or elementary law. Possibilities of the applicant playing delaying tactics could not be ruled out.

It is very unfortunate that say for a decade now, the respondents (decree holders) haven't enjoyed fruits of the judgment and decree. The devoid of merits application is dismissed with costs. Ordered accordingly.

Right of appeal explained.



**S. M. RUMANYIKA**  
**JUDGE**  
**18/01/2019**

Delivered under my hand and seal of the court in chambers this 24<sup>th</sup> day of January, 2019 in the presence of both parties in person.



**O.H. Kingwele**  
**DEPUTY REGISTRAR**  
**24/01/2019**