

**IN THE HIGH COURT OF TANZANIA  
IN THE DISTRICT REGISTRY  
AT MWANZA  
MISC. LAND APPLICATION NO. 106 OF 2020**

**ARBOGAST RUZAGI ..... APPLICANT**

**VERSUS**

**WILIBAD ROCK ..... RESPONDENT**

**RULING**

**15<sup>th</sup> & 26<sup>th</sup> February, 2021**

**RUMANYIKA, J.:**

The application is for extension of time within which Arbogast Ruzagi (the applicant) to appeal against judgment and decree of Geita District Land and Housing Tribunal (the DLHT) dated 26/07/2019. It is supported by affidavit of Arbogast Ruzagi whose contents the applicant adopted during the hearing.

Like the applicant, Wilbard Rock (the respondent) appeared in person.

A summary of facts deposed by the applicant, which also I consider to be the layman submissions essentially, it was to the effect that he intimated his intention of appeal within time as he followed it up and, on

different occasions and repeatedly he sent his sons Kisumo Ruzagi and Bunyinyiga Ruzagi to lodge the appeal but to the contrary they only paid for copies of the impugned judgment and decree and he just relaxed waiting to be summoned by the High Court for the appeal only at a later stage, but late in the day the elderly (closely 100 years old) applicant to learn that on that basis actually the DLHT had not transmitted appeal to this court leave alone one having been indisposed until October, 2020. That's all.

The respondent submitted that the application lacked merits as the delay was deliberate that if anything, the applicant should not have been late for two (2) good years. That is it.

The issue is whether the applicant has shown sufficient grounds for extension of time much as had the impugned judgment and decree really been delivered on 26/07/2019, at any rate any intended appeal was hopelessly time barred.

Be it for extreme old age or illness, the applicant may have had within time sent his sons to follow up the matter but they did it improperly and mistakenly therefore the cause of the delay yes, but with regard to

such serious allegations, no affidavit of the son(s) or of the respective tribunal clerk was for that purposes appended to supplement the supporting affidavit. It sounds to me that the applicant's depositions were as good and afterthought leave alone nondisclosure of the name of the lawyer who might have had this time around awaken the applicant.

Moreover, I couldn't know if the omission was by design or accidentally, though he had it (see paragraph 11 of the affidavit), the applicant did not append to the application copies of the impugned judgment and decree from which I could have measured the extent of delay as one of the requisites for extension of time leave alone what was it all about. In fact with all the above said, I would not even sense a sufficient reason for the delay. I am declined to exercise my discretion of granting extension of time sought.

The devoid of merits application is dismissed with costs. It is so ordered.

Right of appeal explained.

  
**S. M. RUMANYIKA**

**JUDGE**

**21/02/2021**

The ruling is delivered under my hand and seal of the court in chambers this 26/02/2021 in the absence of the parties.



**S. M. RUMANYIKA**

**JUDGE**

**26/02/2021**