

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA

AT ARUSHA

MISC. LAND APPLICATION NO. 5 OF 2020

(Original, Application No. 6 of 2019 In the District Land and Housing Tribunal for Karatu at
Karatu)

PETER CLEOPHAS MANONGA

(Administrator of the Estate of the late CLEOPHAS

MANONGA.....APPLICANT

VERSUS

PETER KAKANI (Represented by GABRIEL COLMAN

MASSAY)RESPONDENT

RULING

14/09/2021 & 07/12/2021

GWAE, J

Peter Cleophas Manonga (hereafter the applicant) pleads this court for enlargement of time within which to file an application for revision in respect of the records of the District Land and Housing Tribunal of Arusha (hereafter the trial Tribunal) vide Application No. 06 of 2019. This application is brought under section 14 (1) of the Law of Limitation Act Cap 89 Revised Edition, 2019 and section 41 (2) of the Land Disputes Courts Act, Cap 216 Revised Edition, 2019. The application is accompanied by an affidavit sworn by the

applicant and the same was strongly opposed by the respondent through a counter affidavit of one **Gabriel Colman Massay**, the respondent's representative

When the matter came for hearing, the applicant and respondent appeared in person, unrepresented. Being a lay person, the applicant had nothing useful to add from his affidavit. The respondent on the other hand insisted that, the applicant has failed to give sufficient reasons nor did he give an account of the days of delay for about four months.

I have considered the application thoroughly, in particular on the sworn affidavit of the applicant which lays the basis of this application. According to the relief sought, the applicant is seeking for enlargement of time to file his application of revision out of the prescribed period, considering the provision of the law cited by the applicant in moving the court that is section 41 (2) of the Land Dispute Courts Act Cap 216 R.E 2019 requires all appeals, revisions and similar proceeding from or in respect of any proceeding in a District Land and Housing Tribunal in the exercise of its original jurisdiction to be filed to the High Court within 45 days after the date of the decision.

From the sworn affidavit, the ruling intended for revision appears to have been delivered on 23/03/2020 whereas this application was filed on 01/09/2020, apparently, the applicant's delay to file an application for revision is of 117 days. As a matter of general principle, whether to grant or refuse an application for extension of time is entirely in the discretion of the Court but that discretion is required to be exercised judiciously.

According to the rules of judicial reason and justice, the overriding consideration is that there must be sufficient or good cause to justify the court to extend time within which to file an appeal or revision or an application out of the prescribed period (See the decision in the case of **Yusuph Same & Another vs. Hadija Yusuph**, Civil Appeal No. 1 of 2002 (Unreported)). As correctly submitted by the respondent, looking at the applicant's affidavit, the applicant has not adduced any reason for his delay. In fact, what can be gathered from the applicant's affidavit is an account of the intended revision save for the contents of paragraph 7 where he stated that the delay in filing revision timely is not so inordinate for the ends of justice whereas. With due respect with applicant, in my considered opinion, the delay of more than 100 days is so inordinate. Thus, it is vividly clear that

the applicant has not given any sufficient reason as to why he delayed for 117 days nor did he give an account of each day of delay.

The requirement to account each and every day of delay has been consistently stressed by our courts in a number of decisions for instance in **Sebastian Ndaula v Grace Rwamafa**, Civil Application No. 4 of 2014, (unreported-CAT) in **Dar- es-salaam City Council v. S. Group Security Co. Ltd**, Civil Application No. 234 of 2015 (unreported) See also a decision of Court of Appeal with the same jurisprudence in **Sebastian Ndaula vs. Grace Rwamafa**, Civil Application No. 4 of 2014 (unreported) and **Lyamuya Construction Company LTD v. Board of registered Trustee of Young Women's Christian Association of Tanzania**, Civil Application No. 2 of 2010 (unreported-CAT).

As already stated above in applications of these nature some factors have to be considered such as whether or not the application has been brought promptly, length of the delay, degree of prejudice to the respondent and any important and apparent illegality, if any, of the decision intended to be challenged or revised.

Consequently, I conveniently find that, the applicant has not given sufficient cause to move this court to grant the relief sought. Accordingly, this application is devoid of merit. Costs of this application shall be borne by the applicant. The parties are advisable to comply with the directive of the District Land and Housing Tribunal of Karatu at Karatu dated 23rd March 2020 namely; that the dispute between the parties should be heard on merit.

It is so ordered.



A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

M. R. GWAE
JUDGE
7/12/2021