

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE DISTRICT REGISTRY OF BUKOBA)**

AT BUKOBA

Misc. LAND APPLICATION No. 38 OF 2020

*(Arising from the District Land and Housing Tribunal for Muleba at Muleba in Land
Application No. 54 of 2017)*

MAGRETH KAJUNA ----- APPLICANT

Versus

HUUD JUMA ----- RESPONDENT

RULING

25/05/2021 & 25/05/2021

Mtulya, J.:

An application for enlargement of time to file an appeal out of time was filed in this court by Magreth Kajuna (The Applicant) claiming that science of this court in electronic filing of appeal through Judicial Statistics Dashboard System (JSDS) has failed her in paying filing fee within time. In paragraph 9 of her Affidavit, the Applicant states that: *after submitting the said appeal online, I waited for generation of control number so as to pay for the court fee, but was not generated.*

Today afternoon when the application was scheduled for hearing, the Applicant invited learned Counsel Mr. Dunstan Mutagahywa who briefly stated that the Applicant had filed the appeal within time on 8th May 2020, but the control number was generated and payment affected

on 13th May 2020. According to Mr. Mutagahywa, the Applicant's appeal was not registered in this court after submission of hard copies of the appeal documents in this registry on 13th May 2020 after the officials in this court declined to register and advised the Applicant to apply for extension of time. Having noted to have no options available to her, the Applicant filed the present application for enlargement of time period to file an appeal out of time. The application was not protested by Mr. Huud Juma, the Respondent, who briefly stated that this court is a temple of justice and the Applicant may be allowed to file her appeal in search of justice as all will be displayed in an appeal.

I have gone through the application, submissions of the parties and certification of Deputy Registrar of this Registry on the date of electronic registration of the appeal, that is 8th May 2020, and I believe that the Applicant had filed her appeal within time as per requirement of the law in Rule 21 (1) of the **Judicature and Application of Laws (Electronic Filing) Rules, 2018 GN. No. 148 of 2018** (the Rules).

The proviso in section 41 (2) of the **Land Disputes Courts Act** [Cap. 216 R.E. 2019] (the Act) allows applicants of extension of time to provide good cause to persuade this court to decide in favour of their applications. The practice of this court and our superior court has been that the applicants for enlargement of time must to register relevant

materials to persuade court to grant their applications (see: **Dar Es Salam City Council v. Jayantilal P. Rajan**, Civil Application No, 27 of 1987; and **Alliance Insurance Corporation Ltd v. Arusha Art Ltd**, Civil Application No. 33 of 2015). However, there are no currently established relevant materials which can be listed as good causes in our courts of record and even if they were, the categories are not closed.

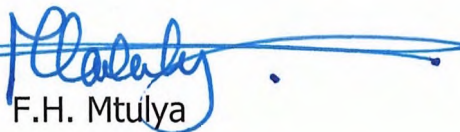
The directives of our superior court has been that the lists may be added depending on circumstances of each case and ability of applicants to persuade courts to exercise their discretionary powers to decide in their favour (see: **Oswald Masatu Mwizarubi v. Tanzania Processing Ltd**, Civil Application No. 13 of 2010 and **Dar Es Salaam City Council v. Jayantilal P. Rajani**, Civil Application No. 27 of 1987).

Today, Mr. Mutagahywa is asking failure of science in JSDS to generate control number to be listed as part of relevant materials to establish good cause in enlargement of time to file an appeal out of time. In my considered opinion, I think, faults caused by science in JSDS may be recorded as one of the good causes for enlargement of time to file an appeal out of time, provided the fault is certified by Registrar or Deputy Registrar of this court.

Having said so and noting the Respondent did not protest the application, I have formed an opinion to grant the application as I hereby do so. The Applicant is granted fourteen (14) days leave from today to file her appeal in this court without any further delay. No costs awarded. Each party shall bear its costs. The reason is straight forward. The Respondent did not protest the Application as per practice of the Court of Appeal in **Ally Chamani & Another v. Tanzania Building Agency & Another**, Civil Application No. 47 of 2019, where the Court stated that it is not fair to condemn parties who are readily conceding to the applications or preliminary points of objections.

It is so ordered.




F.H. Mtulya

Judge

25.05.2021

This Ruling was delivered in chambers under the seal of this court in the presence of the Applicant Magreth Kajuna and her learned counsel Mr. Dustan Mutagahywa and in the presence of the Respondent, Mr. Huud S. Juma.




F.H. Mtulya

Judge

25.05.2021