

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(LAND DIVISION)  
AT DAR ES SALAAM**

**MISC. LAND CASE APPLICATION NO.467 OF 2023**

*{Arising from Misc. Land Appeal No. 790 of 2022}*

**WILFRED WAINDI.....APPLICANT**

**VERSUS**

**PETER L. MOLELI.....1<sup>ST</sup> RESPONDENT**

**MOHAMED ALLY.....2<sup>ND</sup> RESPONDENT**

**R U L I N G**

*Date of Last Order: 16.08.2023*

*Date of Ruling: 31.08.2023*

**T. N. MWENEGOHA, J.**

The applicant sought for an order of extension of time so that he can lodge an Application for leave to appeal to the Court of Appeal of Tanzania, out of time, against the decision of Luvanda J, vide Misc. Land Application No. 790 of 2022. The Application was brought under **Section 93 of the Civil Procedure Code, Cap 33 R. E. 2019** and supported by an Affidavit of Advocate Amin Mohamed Mshana.

The Application was not contested by the respondents. Regardless of that fact, the Court ordered the applicant to present his written submissions for it to satisfy itself if he has a sufficient reason for his delay to take his intended course.

In his written submissions, the applicant insisted that, the delay was not caused by negligence, but resulted from a technical problem which was beyond the applicant's control. That, he filed the Application within time through the Electronic Filing System five days before the deadline, but the same was later rejected for reasons that, the same was filled without attaching the order allowing it to be filled. That, the said order was yet to be supplied to him at that material time, hence he had to request from this Court on the 04<sup>th</sup> of July, 2023. On the 10<sup>th</sup> of July, he was supplied with the order and on the 12<sup>th</sup> July, the Application was successfully submitted. But again, the same was rejected on the 13<sup>th</sup> of July, for being time barred.

I have considered the submissions of the Applicant, along with his affidavit in support of the Application. The issue for determination is whether the Application has merits or not.

As I have already pointed herein above, the respondent conceded to this Application for the reason that it was technical error. Above all, the reasons for delay to file his intended Application as given by the Applicant in his submissions, were supported by the respondent. Therefore, without wasting much of this Court's time, I find the Application to have merits.

In the event, the Application is allowed. The applicant is given 14 days to file his intended Application. No order as to costs.

It is so ordered.



  
**T. N. MWENEGOHA**  
**JUDGE**  
**31/08/2023**