

TANZANIA / JUDGMENT

AMINA HAMAD SAFII

COURT
TANZLII

DECIDED
30 October 2024

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IN THE HIGH COURT OF TANZANIA (LAND DIVISION) AT PAR ES SALAAM MISC. LAND APPLICATION NO. 21629 OF 2024 (Arising From Land Appeal No. 7866 of 2024, Land Division) AMINA HAMAD SAID..... 1st APPLICANT REHEMA HAMAD SAID..... 2nd APPLICANT VERSUS TEMEKE FOOTBAL ASSOCIATION (TEFA)..... RESPONDENT

RULING

25th to 30th October, 2024 E.B. LU VAN DA, J The First and Second Applicants are seeking extension of time to enable them file a notice of appeal out of time against the judgment of this Court dated 27/06/2024 in the above captioned land appeal. In the affidavit in support of the application, the Applicants stated that shortly from 25/06/2024 before the date of delivery of judgment, the First Respondent fell sick and failed to attend on the date of delivery of judgment, whereby the Second Applicant was nursing the First Applicant during the entire period where the First Applicant was under bed rest, citing medical report and sick sheet annexure A2 to the affidavit in support. That considering a fact that the Applicants reside in Zanzibar, thus it was difficult for the Second Respondent to attend her sick sister and also to keep keen follow up of the case for purpose i of filing notice of appeal. That the First Respondent was discharged on 25/08/2023 (sic, 2024) after recovering. In the counter affidavit, the Respondent stated that the Applicants are telling lies on oath for explanation that the time for filing the notice of appeal was quiet sufficient within which the Applicants were supposed to file the same. That it is not true that the First Applicant was sick for the entire period when the Applicants were to file the notice of appeal. That it is not true that all the time the First Applicant was being attended by the Second Respondent. That annexure A1 are forged document and were made to deceive this Court. That it is not true that the First Applicant was undergoing bed rest to the extent of failure to sign and execute the notice of appeal. That during the entire period, the Second Applicant could execute and provide assistance to the First Applicant to sign and lodge the notice of appeal or advocate could sign and lodge notice of appeal on behalf of the First Applicant. Mr. Godfrey F. Alfred learned Counsel for Applicants the Applicants submitted that the Applicants failed to file a notice of appeal due to sickness of the First Respondent who was under bed rest and the Second Applicant being the close relative was duty bound to take care of her sick sister. In reply, Mr. Castor A. Rwekiza learned Counsel for Respondent submitted by reiterating that the Applicants are telling lies before this Court, arguing that they 2 believe annexure A2 are forged for purpose

of deceiving this Court. He submitted that the discharge form was signed by the Medical Doctor on 25/08/2023 almost one year and two months back from the date the Applicant was discharged to wit on 8/07/2024, argued that it connote the discharge was signed even before the First Applicant was admitted at the hospital on 25/06/2024 and discharged on 8/07/2024. He submitted that even if it is assumed to be an error, argued the same was not indicated, rectified or denied by the Applicants in their submission in chief. He submitted that annexure A2 does not indicate which ward the First Applicant was admitted. That a notice of appeal is a simple document of one page, which does not require much time to prepare. That at paragraph four of the affidavit, the Applicants allege are living in Zanzibar, argue that annexure A2 indicate the Applicants were at Kigamboni, Dar es Salaam. He submitted that the Second Applicant is not a medical doctor to take care of the First Applicant. He submitted that the evidence suggest the First Applicant was outpatient and not full admitted. He submitted that the Applicants totally failed to account for each day of delay. He submitted that the decision was delivered on 22/06/2024, a notice of appeal was supposed to be filed on 27/07/2024, this application was filed on 2/09/2024, while the First Applicant was admitted on 25/06/2024 and discharged on 8/7/2024. He submitted that from 8/07/2024 when the First Applicant was discharged up to 3 With the above unfeigned opinion from a competent Medical Practitioner, it will be unfair to hold a view that the Applicants did not account for the delay or that some days here and there were not accounted for. In fact, the above observation covers the Second Applicant as well, on account that she was nursing her sibling. I therefore grant the Applicants an extension of fourteen days to lodge a notice of the intended appeal. The fourteen days will count from the date hereof. The application is granted. No order for costs. 5

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