

TANZANIA / JUDGMENT

sam idd msabila scanned

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA LAND DIVISION AT DAR ES SALAAM MISC. LAND APPLICATION NO. 30158 OF 2024 {Arising from the judgment of the District Land and Housing Tribunal for Kigamboni, in Land Application No. 48 of 2023 before Hon. S.H. WambiH, Chairman dated 31st May, 2024) SAM IDD MSABILA..... APPLICANT VERSUS KITWANA MOHAMED..... 1st RESPONDENT HADIJA ALLY RAMADHANI..... 2nd RESPONDENT

RULING

24/02/2025 N.E. MAN DI A, J This is an application for extension of time to file an appeal out of time brought under section 14(1) of the Law of Limitation Act [Cap. 89 R.E 2019] against the judgment of the District Land and Housing Tribunal for Kigamboni (the Tribunal) (Hon. S.H Wambili, Chairperson) in Land Application No. 48 of

2023. The ground canvased by the applicant in the chamber summons are as follows:

1. That this Court be pleased to grant extension of time within which the Applicant to file appeal out of time against the judgment of the District Land and Housing i Tribunal for Kigamboni dated 31st May, 2024 in Land Application No. 48 of 2023.
2. Any other relief(s) that this Honorable court deem fit to grant. The application is supported by the affidavit of SAM IDD MSABILA the applicant. The respondents have not filed their counter affidavit for the reasons that they do not intend to oppose the application. The brief background of this application is that the 1st respondent filed Land Application No. 48 of 2023 in the Tribunal against the applicant and the 2nd respondent for ownership of the suit land located at Vijibweni Area, Vijibweni Ward, Kigamboni Municipality, Kigamboni District, Dar es Salaam. The Tribunal delivered its judgment on 31st May, 2024 against the applicant and the 2nd respondent. Aggrieved by the decision, the applicant filed an appeal in the High Court, Land Division via Land Appeal No. 14997 of 2024. On 20th November, 2024 the appeal was struck out for nonjoinder of necessary party. On 21st November, 2024 the applicant was supplied with a copy of the ruling. Thereafter, he started looking for a lawyer to assist him in filing his intended appeal. On 22nd November, 2024 the applicant went to the legal aid center located in the One Stop Judicial Center Temeke where he located a lawyer to assist him. In the process the applicant realized that he was out of time to lodge his appeal

hence, this application. ■ 2 On 24th February, 2024 the matter was called for necessary orders. Mr. Ibrahim Mbuga, learned advocate appeared for the 1st respondent. The applicant and the 2nd respondent both appeared in person and unrepresented. When given floor to address the court, Mr. Msabila contended that all parties were duly served and the matter is coming for necessary orders. Mr. Mbuga submitted that they concede to the application as they do not intend to object it. Similarly, the 2nd respondent concurred with the submission made by Mr. Mbuga as she also conceded to the application. Having heard the parties and because the application has been conceded by both parties, my duty is therefore to grant it. However, before venturing on that route, at the outset it should be clear that granting of an extension of time is a court discretion which must be exercised judiciously. In LYAMUYA CONSTRUCTION COMPANY LTD VS. BOARD OF REGISTERED TRUSTEE OF YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF TANZANIA, Civil Application No. 2 of 2010 it was held that: "As a matter of general principle, it is in the discretion of the Court to grant extension of time. But that discretion is judicial, and so it must be exercised according to the rules of reason and justice, and not according to private opinion or arbitrarily. I have considered the reasons advanced by the applicant in his affidavit to support the application. I am satisfied that the applicant has met the threshold for the court to exercise its discretion to grant extension of time as sought in the 3 chamber application. Consequently, the application is granted. The applicant is give seven (7) days within which to file the intended appeal. Costs to follow events. It is so ordered.

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