

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(LAND DIVISION)

AT DAR ES SALAAM

LAND APPEAL NO. 15 OF 2020

JOHANSEN BISHOTA LWEKAMWA.....APPELLANT

VERSUS

TANZANIA ZAMBIA RAILWAYS AUTHORITY.....RESPONDENT

Date of Judgment 27/11/2020

Date of the last order 28/9/2020

RULING

I. MAIGE, J

This is an appeal against the judgment and decree of the District Land and Housing Tribunal for Temeke in Land Application No. 24 of 2016 which was delivered on 7th November 2017. This appeal was filed on 27th January 2020.

It is more than three years from the date of the judgment. In a statement just immediate after the citation of the registration number of the appeal, it is indicative that though the judgment was delivered on 7th November 2017, it was made available to the appellant for collection on 13th December 2019.

The appellant has neither attached nor pleaded a request letter to suggest that he requested for a copy of judgment soon after the delivery of the

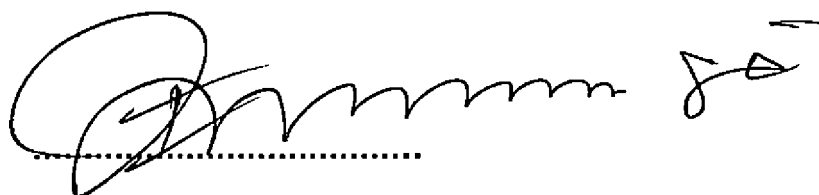
judgment or at all. Therefore, on 9th April 2020, this Court ordered the parties to appear on 16th June 2020 and address the Court if the appeal was not time barred.

On 16th June, 2020, the appellant was present in person and the respondent was absent. The Court ordered that the preliminary issue and the substance of the appeal be argued by way of written submissions. The appellant filed his written submissions in person whereas advocate Mercy Chimtawi filed the same for and on behalf of the respondent. In their written submissions, I have noted, neither of the parties remarked on the issue of time limitation. I take it that they have abandoned their right to be heard on the legal point raised by the Court on its own motion.

I have carefully casted a glance over the memorandum of appeal and its annexures. On the face of it, the appeal appears to be hopelessly time barred. It has been filed after the expiry of more than three years from the date of the judgment without there being an order extending time to appeal. The appellant has attempted to demonstrate in his memorandum of appeal that a copy of judgment was made available to him on 3rd December 2019. In so far as he has not attached in his memorandum of appeal any request

letter suggesting that he timely requested for a copy of judgment, the fact that he was supplied with the same on 13th December, 2020 cannot justify the delay. In my opinion therefore, this appeal is hopelessly time barred and it is accordingly dismissed with costs.

It is so ordered.

A handwritten signature in black ink, appearing to read 'I. Maige', written over a horizontal dotted line. The signature is stylized and cursive.

I. Maige

JUDGE

27/11/2020

Date: 27/11/2020

Coram: Hon. S.H. Simfukwe - DR

For the Applicant: Present in person

For the Respondent: Absent

RMA: Bukuku

ORDER: Ruling delivered this 27th day of November, 2020.



A handwritten signature in blue ink, appearing to read "S.H. Simfukwe".

S.H. Simfukwe
DEPUTY REGISTRAR
27/11/2020