

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(LAND DIVISION)

AT DAR ES SALAAM

MISC LAND APPLICATION NO. 297 OF 2020

*(Arising from High Court (Land Division) in Land Application No. 888 of 2016 as per
Hon. Tengwa, Taxing Master)*

STEPHEN VITUS MAPUNDA.....APPLICANT

VERSUS

YOHANA MCHALO.....RESPONDENT

Date of the ruling 11/12/2020

Date of the last order 12/10/2020

RULING

I. MAIGE, J

This is an application for extension of time to apply for reference against the decision of Hon. Tengwa, Taxing Master dated 21st January 2020. The application is made under section 14(1) of the Law of Limitation Act. It is founded on the affidavit of Isaack Zake, learned advocate for the applicant. The respondent, aside from rebutting the facts in the affidavit by way of a

counter affidavit, he has questioned the maintainability of the application for being wrongly preferred.

In his brief submissions in support of the preliminary objection, Mr. Rafael David, learned advocate for the respondent submits that the provision of section 14 of the Law of Limitation Act is not the appropriate provision of law to move the court for extension of time to file a reference against the decision of a Taxing Master. In his understanding, which I full subscribe to, the relevant provision is order 8 (1) of the Advocates Remunerations Order, 2015 which provides that; "*the High Court may, subject to order 7 extend time for filing a reference upon sufficient cause*". He prays therefore that the application be struck out for being incompetent.

Mr. Zake for the applicants conceded with the preliminary objection but prayed that he be allowed to file a fresh application.

I agree with both counsel that, the instant application in so far as it is preferred under section 14 of the Law of Limitation Act instead of order

8(1) of the Advocates Remunerations Order, 2015 is incompetently before the Court. It is accordingly struck out with costs.

A handwritten signature in black ink, appearing to read 'I. Maige', with a stylized flourish at the end.

I. Maige

JUDGE

11/12/2020

Date: 11/12/2020

Coram: Hon. C. Tengwa - DR

For the Applicant: Present

For the Respondent: David Rafael, Advocate

RMA: Bukuku

COURT:

Ruling delivered today in the presence of the applicant and the counsel for the respondent.



C. Tengwa

DEPUTY REGISTRAR

11/12/2020

