

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LAND DIVISION)
AT SUMBAWANGA**

LAND REVIEW NO. 1 OF 2020

***(Originating from the Decision of the High Court of (T) in Misc.
Land Application No. 20 of 2019)***

VALENTINO KAYOLA APPLICANT

VERSUS

BARNABAS CHIWANGA RESPONDENT

Date of last Order: 29/03/2021

Date of Ruling: 15/04/2021

RULING

C.P. MKEHA, J

The applicant has moved the court to review its ruling dated 11th December, 2019. The application is made under section 78 and Order XLII Rule 1 (1) (b) of the Civil Procedure Code. According to Mr. Sanga learned Advocate for the applicant and in view of the Memorandum of Review, there is an apparent error on face of the record regarding Miscellaneous Land Application No. 20 of 2019 by his Lordship Mrango, J dated 11th December, 2019 in the sense that, the court, instead of granting the applicant with an extension of time to apply for certificate on point of law as prayed and reflected everywhere in records, ended up granting extension of time to file notice of appeal to the Court of Appeal a prayer which was not sought. The learned Advocate for the applicant

urged the court to review the said ruling so that it can accommodate and reflect actual reliefs sought in Miscellaneous Land Application No. 20 of 2019.

The respondent who appeared in person resisted the application. In his view, the court committed no error. He could not however dispute the fact that, the court, in its ruling, ended up granting a prayer which was not sought.

There is no denial that through Miscellaneous Land Application No. 20 of 2019 the applicant prayed for extension of time within which to apply for a certificate on point of law. That is also reflected in the introductory paragraph of the ruling which is now being reviewed. It was inadvertent that in the operative paragraph of the said ruling, the court ended up granting extension of time to file notice of appeal to the Court of Appeal of Tanzania. Fourteen (14) days' time was given to the applicant for that purpose.

The Chamber Summons initiating Miscellaneous Land Application No. 20 of 2019 indicates that, the applicant approached the court asking it to be pleased to extend time within which the applicant could apply for certificate on point of law out of time against the decision of this court in Miscellaneous Land Appeal No. 19 of 2018 of which the applicant intends to appeal to the Court of Appeal of Tanzania. Upon this court being satisfied that the applicant had given justifiable and good reasons for this court to exercise its discretionary power to grant the application, the court was expected to grant the applicant's prayer as indicated hereinabove. Instead, it granted a prayer

not sought. Indeed, that is an error on face of the record attracting the exercise of this court's review powers.

It is for the foregoing reasons I hold the present application to be meritorious. The same is granted. Time is extended for the applicant to apply for certificate on point of law against the decision of this court in Miscellaneous Land Appeal No. 19 of 2018 against which the applicant intends to appeal to the Court of Appeal of Tanzania. Thirty (30) days' time is given for that purpose. This court's ruling dated 11th December, 2019 is reviewed to the extent indicated hereinabove. No order is made for costs.

Dated at **SUMBAWANGA** 15th day of April, 2021.




C.P. MKEHA

JUDGE

15/04/2021

Court: Ruling is delivered in the presence of the parties.




C.P. MKEHA

JUDGE

15/04/2022