



**ABDUL IBRAHIM v. AYUBU MWALEMBA AND ANOTHER**

COURT OF APPEAL OF TANZANIA AT MBEYA

CORAM: RUMANYIKA, J.A

CIVIL APPLICATION NO. 642/06 OF 2021

(Application from the Ruling of the High Court of Tanzania at Mbeya)(Karayemaha, J) dated the 21st day of October, 2021 In Misc. Land Application No. 61 of 2021)

*Civil Practice and Procedure – Application for extension of time- preliminary objections on Limitation of Actions - whether there is time limit to lodge application for extension of time to file leave to appeal - Rule 10 of the Court of Appeal Rules 2009*

*Civil Practice and Procedure – Judicial Discretion - The granting of an extension of time is at the Court’s discretion*

*Civil Practice and Procedure - Burden of Proof – The requirement for an Applicant to demonstrate good cause for an extension of time - whether the court has the power to grant extension of time*

The applicant sought an extension of time to file an appeal against the High Court’s decision in Misc. Land Application No. 61 of 2021. The application, filed under Rule 10 of the Tanzania Court of Appeal Rules, 2009, was opposed by the respondents through affidavits.

During the hearing on 03/10/2022, the respondents' counsel raised preliminary objections, arguing that the court lacked jurisdiction as the applicant should have sought extension of time from the High Court under Rule 45(a)(b). Additionally, they contended that the application was time-barred, as it was filed nine days beyond the prescribed fourteen-day limit

Application Struck Out.

**Held:**

- (i) An application for extension of time cannot be time-barred, as doing so would render Rule 10 of the Tanzania Court of Appeal Rules meaningless.



- (ii) For an application for an extension of time to succeed, the applicant must show good cause, and the decision is made at the court's discretion.

The Application was struck out with costs

**Statutory provisions referred to:**

- (i) Rule 10 of the Tanzania Court of Appeal Rules, 2009  
(ii) Rule 45 (a) (1) (b) of the Tanzania Court of Appeal Rules, 2009

Applicant appeared in person,  
Isaya Mwanri appeared for the respondent.