

**IN THE HIGH COURT OF TANZANIA**  
**AT DAR ES SALAAM**

-----

**MISC.CRIMINAL APPLICATION NO. 55 OF 2005**  
**(Originating from Criminal Case No.300 of 2003**  
**Bagamoyo District Court at Chalinze)**

**1. OSCAR S/O ANASTASI**  
**2. MOHAMED ALMASI KIZEGE**  
**3. MBARAKA ALMASI KIZEGE . . . . . APPLICANTS**  
**VERSUS**  
**THE REPUBLIC . . . . . RESPONDENT**

**Date of Last Order ; 17/7/2006**

**Date of Judgment: 11/09/2006**

**RULING**

**MLAY, J:**

This is an application for leave to appeal out of time. The application was brought under sections 316 and 363 of the Criminal Procedure Act 1984, and it is supported by the joint affidavit of the applicants. The main reason given for delay is blamed on the prison authorities.

At the hearing of the application the applicants adopted the grounds in their joint affidavit. Mr. Mapinduzi learned State Attorney who appeared for the Republic, opposed the application on grounds that the allegation in the affidavit is not supported by any affidavit from the prison authorities that they were responsible for the delay.

I agree with the learned State Attorney that the delay attributed to the prison authorities has not been substantiated.

However, it has been held that good reasons are not only reasons relating to the delay but include other reasons like the chances of the appeal to succeed. Apparently, the appellants have alleged in their affidavit that there are important points of law in the judgment and order of the trial court which have an overwhelming chance of success". Short of pre-judging the intended appeal, I think there are issues relating to identification of the appellants. Although there are no good reason for the delay, I think the Appellants have shown that there are other reasons for allowing the application.

The application is accordingly granted as prayed. The intended appeal to be filed within 30 days of this order. It is so ordered accordingly.



J. I. May,

**JUDGE**

**11/09/20006**

***Words: 250***