

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(ARUSHA DISTRICT REGISTRY)

AT ARUSHA

MISC CRIMINAL APPLICATION NO. 44 OF 2018

PAULO SAMWEL GIRENGIAPPLICANT

SAINGA WACHAKA METUAPPLICANT

VERSUS

REPUBLIC RESPONDENT

RULING

MAIGE, J.

Before me is an application for extension of time to lodge a notice of appeal and an appeal against the decision of the Resident Magistrates' Court of Arusha in Economic Case No. 20/2016. The application is made under section 361 (2) of the Criminal Procedure Act, Cap. 20, R.E. 2002. It is supported by the Joint Affidavit of the applicants.

In accordance with the factual deposition in paragraph 3 and 4 of the joint affidavit, the applicants had previously filed a criminal appeal number 140

of 2017 which however was struck out, on 17th May 2018, for being accompanied with a defective notice of appeal. The instant application was filed on 9th July 2018. The applicants claim in the affidavit that the delay to pursue the appeal was on account of bonafide prosecution of the struck out criminal appeal.

On the date when the matter came for hearing, the applicants appeared in persons and were not represented. Mr. Gervas, SA who took the conduct of the matter for the respondent supported the application. In his humble opinion, the factual deposition in the affidavit justifies for the grant of the application. The applicants did not have any comment to make.

On my part, I have taken time to study the affidavit in support of the application. I subscribe to the learned state attorney that, the affidavit in support of the application demonstrates sufficient cause for the delay to pursue the intended appeal. It is irrefutable that, being aggrieved by the decision of the **trial court**, the applicants, through prison officers, filed an earlier appeal well within time. The notice of appeal and the memorandum of appeal were prepared on their behalf by prison officers. The applicants being laypersons would have not been in a position to discover the defect in the notice of appeal that led to the striking out of the earlier appeal. The instant application has been filed within 50 days from the date of the

striking out of the application. For the persons who are under restraint, I do not think that the period of 50 days is not reasonable.

For those reasons, I find that sufficient cause for extension of time exists. The application is henceforth granted. The applicants are hereby allowed to file their notice of appeal and intended appeal within 30 days from the date when they will receive a copy of this ruling.

It is so ordered.


(SGD) MAIGE. I

JUDGE

05.09.2018

Date:- 5/9/2018

Coram:- I. Maige, J

1 st Applicant:	}	Present in persons
2 nd Applicant:		
For the Applicants:		

Respondent:

For the Respondent: Tarsila Gervas State Attorney.

C/C:- Mariam.

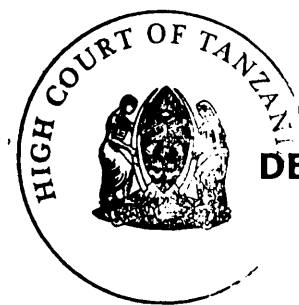
Order:- Ruling delivered, application granted.


(SGD) MAIGE. I

JUDGE

05.09.2018

I hereby certify this to be a true copy of the original.




J.F. NKWABI

DEPUTY REGISTRAR

ARUSHA

12/09/2018