

**IN THE HIGH COURT OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)**

AT DAR ES SALAAM

CRIMINAL APPEAL NO. 174 OF 2016

(Originating from Morogoro Resident Magistrate court Economic No. 6/2014)

- 1. MOHAMED S/O RAMADHANI MAZOLA.....1ST APPELLANT**
- 2. GEOFREY S/O ALEXANDER MAPUNDA.....2ND APPELLANT**

VERSUS

THE REPUBLIC.....RESPONDENT

JUDGMENT

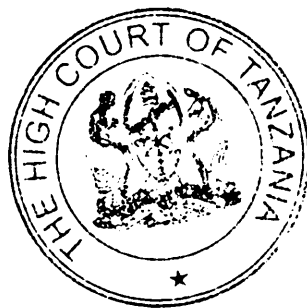
MURUKE, J.

The appellants were convicted by the Resident Magistrate Court of Morogoro at Morogoro and sentenced to serve twenty years imprisonment. At the trial court, were charged with two counts namely conspiracy to commit an offence and unlawful possession of government trophies. Dissatisfied by the conviction and sentence, they both filed present appeal, raising grounds of appeal contained in the memorandum of appeal, filed on 16th June 2017.

Appellants were both unrepresented, while Learned State Attorney Naringwa Sekibanga, represented respondent. Both parties submitted four and against the grounds of appeal.

However for the reasons to be explained later, I will not deal with appeal on merits.

In the course of composing judgment, I came to realize that there is no Notice of appeal filed in the original court records. There is copy of notice attached to the memorandum, of appeal, however, that cannot be acted upon. Lack of notice in the trial court records is fatal to the present appeal. Without Notice, appeal before this court, is incompetent. Adjudicating on an incompetent appeal on merits is serious defects because, proceeding will be quashed, and any subsequent order and judgment will be set aside. Despite serious submission by learned State Attorney Naringwa Sekibanga, that there is enough evidence to support conviction and sentence, imposed by the trial court, I cannot determine appeal on merits on the reason of incompetence. Appeal before me lacks Notice of appeal according to trial court records. Thus, appeal is struck out for being incompetent. Order accordingly.




Z. G. Muruke

JUDGE

30/04/2018

Judgment delivered in the presence of appellants in persons and Tuli Helela for the respondent.



Z. G. Muruke

Z. G. Muruke

JUDGE

30/04/2018