

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF
TANZANIA**

IN THE DISTRICT REGISTRY OF MBEYA

MISC. CRIMINAL APPLICATION NO. 47/2020

(From District Court of Mbeya Criminal Case No. 150/2016)

BARAKA LUSEKELO KIBONA 1ST APPLICANT
FRIDAY MBWIGA 2ND APPLICANT

VERSUS

THE REPUBLICRESPONDENT

RULING

Date of Last Order: 26.05.2020

Date of Judgment: 26.05.2020

Dr. A. J. MAMBI, J.

This Ruling emanates from the application filed by the applicants seeking for an extension of time to file their appeal to this Court out of time. In their application supported by an affidavit, the applicants have prayed to this court to allow him to file their appeal out of time.

Having shown an interest to appeal against the decision of the Trial Court, the applicant who are in the prison found himself time bared and he thus decided to file hthier application supported by affidavit.

In reply the respondent (Republic), through the learned State Attorney Ms Hanarozi supported this application on the ground that the application was filled in accordance to the law with reasons.

I have keenly perused the application supported by his affidavit and considered the submissions made by both parties to find out whether this application has merit or not. In my view, the key issue in this application is whether the applicant has advanced sufficient reasons in his application. This court has gone through the affidavit that contains the reasons advanced by the application in his application for extension of time for the applicant to file his appeal out of time. It is trite law that when it comes to matters on for extension of time to file his appeal out of time he is required to advance sufficient reasons before the court can allow such application. This was clearly underscored by the Court of Appeal in ***REGIONAL MANAGER, TANROADS KAGERE V. RUAHA CONCRETE COMPANY LTD CIVIL APPLICATION NO.96 OF 2007 (CAT unreported)***. The Court observed that any court considering an application for an extension of time must address the issue as to whether the applicant in his affidavit has disclosed good cause for delay. This means that the court needs to take into account factors such as reasons for delay that where the applicant is expected to account of cause for delay of vey day that passes beyond the aforesaid period, lengthy of the delay

that is to shown such reasons were operated for all the period of delay.

I have gone considerably through the applicant's document including his affidavit in line with the prosecution submission and found that the applicant has indicated sufficient cause to enable this court to consider and grant his application. In the application before this court, the applicants in their affidavit has clearly indicated that had had good reasons for their delay. Indeed, good reasons for the delay of filling an appeal has in most occasion been considered by the court to gnat application an extension of time. This was also underscored by the court in **TANGA CEMENT AND ANOTHER CIVIL APPLICATION NO 6 OF 2001**. In this case the court observed and held that:

"What amounts to sufficient cause has not been defined. From decided cases a number of factors has to be taken into account including whether or not the application has been brought promptly; the absence of any or valid explanation for delay; lack of diligence on the part of the applicant".

In a similar situation, the curt in **REGIONAL MANAGER TANROADS KAGERA VS RUAHA CONCRETE CO LTD CIVIL APPLICATION NO 96 of 2007** observed that:

"the applicant must place before the court material which will move the court to exercise judicial discretion in order to extend time limited by rules"(emphasis supplied).

Basing on those reasons from my findings, I agree with the applicants as supported by the learned State Attorney that the applicants have advanced sufficient reasons for his delay and the extent of such delay in their application the fact which has been supported by the respondent. I am of the considered view that this application has merit and this court finds proper the applicants to be granted their prayers for their application. The applicants shall file their appeal within fourteen days from the date of this ruling.



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DR. A.J. MAMBI
JUDGE
26.05.2020

Ruling delivered in Chambers this 26th day of May 2020
in presence of both parties.

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DR. A. J. MAMBI
JUDGE
26.05.2020

Right of appeal explained.

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DR. A. J. MAMBI
JUDGE
26.05.2020