

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(IN THE DISTRICT REGISTRY OF TANGA)**

**AT TANGA**

**CRIMINAL APPLICATION No. 06 OF 2021**

*(Originating from the District Court of Muheza at Muheza in Criminal  
Case No. 44 of 2020)*

**1. SAID RASHID SEMKIWA @KANGAMSEE**  
**2. RAJABU IDD SAID @ ROJA MJESHI** } ..... **APPLICANTS**

**Versus**

**REPUBLIC** ..... **RESPONDENT**

**RULING**

**26.07.2021 & 26.07.2021**

**Mtulya, J.:**

Mr. Said Rashidi Semkiwa @ Kangamzee and Mr. Rajabu Iddi Said @ Roja Mjeshi (the Applicants) approached this court on 15<sup>th</sup> March 2021 seeking enlargement of time to file notice and appeal out of time to dispute the decision of the **District court of Muheza at Muheza** (the district court) in **Criminal Case No. 44 of 2020** (the case) delivered on 1<sup>st</sup> October 2020.

Today when the application was scheduled for hearing through visual court, learned State Attorney Ms. Elizabeth Muhangwa, supported the application contending that the Applicants have good cause to be granted leave to refer the appeal in this court as they are lay persons under prison authorities and normally drafting of their appeals in prison is done through prison officers who in some

occasions cannot be easily accessible. The submission of Ms. Muhangwa was received well by the Applicants who briefly submitted that they would not delay any further in registering an appeal in this court as they have already prepared appeal's documents.

On my part, I have gone through the second and third paragraphs of the Applicants' Affidavit and the Applicants categorically stated that they are in prison custody and receive assistance from prison officers in preparing notice of intention to appeal, applications, and appeals. The practice of this court has been that applicants for enlargement of time must show good causes to persuade this court to decide in their favour (see: **Oswald Masatu Mwizarubi v. Tanzania Processing Ltd**, Civil Application No. 13 of 2010 and **Alliance Insurance Corporation Ltd v. Arusha Art Ltd**, Civil Application No. 33 of 2015).

In the present application, the Applicants stated that they are lay persons in prison custody showing that they were prevented from drafting their appeal within time and their well-being depends in prisons authorities. In short, the Applicants are displaying that there are situations and factors beyond their control which prevented them to access this court within time. The practice of the Court of Appeal has been that factors beyond applicants control may

be considered to be part of the good causes in an application for enlargement of time (see: **Foreign Mission Board of Southern Baptist Convention v. Alexander Panomaritis** [1984] T.L.R 146; and **Benezeth Mwebesi & Two Others V. Baraka Peter**, Misc. Civil Application No. 46 of 2019).

This court has also considered and abided with the Court of Appeal directives for persons who are in prison custody in applications for enlargement of time in the precedent of **Yusuph Hassan v. Republic**, Criminal Application No. 56/12 of 2017, in a bundle of precedent of this court (see: **Amudy Kabwishukuru v. Republic**, Misc. Criminal Application No. 2 of 2020; **Iman Gregory v. Rose Charles**, Misc. Criminal Application No. 15 of 2020; and **Gadafi Zubaili v. Republic**, Misc. Criminal Application No. 92 of 2020). I think, in my opinion, the present application will have to follow the same course.

Having noted that there is good cause in the present application, and that the application was not protested by learned State Attorney, Ms. Muhangwa, I have decided to grant the Applicants ten (10) days' leave to prefer notice of an intention to appeal in this court without any further delay. I also grant Applicants leave to file an appeal in this court in accordance to the laws regulating appeals from district courts to this court.

It is so ordered.



F.H. Mtulya

**Judge**

26.07.2021

This ruling is delivered under the seal of this court in Chambers in the presence of the Applicants, Mr. Said Rashidi Semkiwa @ Kangamzee and Mr. Rajabu Iddi Said @ Roja Mjeshi through visual court and in the presence of learned State Attorney, Ms. Elizabeth Muhangwa for the Republic.

A handwritten signature in blue ink, appearing to read "F.H. Mtulya", is written over the seal and extends to the right.

F.H. Mtulya

**Judge**

26.07.2021