

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA

AT ARUSHA

MISC. CRIMINAL APPLICATION NO. 81 OF 2020

*(Originating from Resident Magistrate Court of Manyara at Babati in
Economic Case No. 14/2016)*

HAGAI GODLISTEN MRINGOAPPLICANT

VERSUS

THE REPUBLIC

RULING

26/07/2021

KAMUZORA, J.

The Applicant Hagai Godlisten Mringo filed this application No. 81/2020 praying for orders of this court extending time within which he can file a notice of Appeal and an appeal out of time.

Briefly, the applicant was charged for Economic case No. 14 of 2016 before the District Court of Babati at Babati. The decision made by the District court in that case was not in favour of the applicant thus, he appealed to this court vide Criminal Appeal No. 67/2018. The appeal was struck out by Hon. Gwae J, for being incompetently filed out of time.

That triggered the applicant to file an application for extension of time before the High Court which was transferred to be heard and determined

by a Magistrate with extended jurisdiction, that is; DC/Misc. Criminal Application No. 4 of 2020. The said application for extension of time was dismissed by Magistrate with extended jurisdiction for lack of merit on 11/09/2020.

On 22/12/2020, the applicant filed again another application praying for the same order of extension of time to file a notice of Appeal and the intended appeal.

It is on this fact, the learned state Attorney raised a concern that, the applicant could not bring a fresh application in the issues that was already determined. She was of the view that, the only remedy available was for the Applicant to file a review referring the East African case, **Ngoni Matengo Cooperative Marketing Union Ltd Vs. Ally Mohamed Osman (1959)** 577 pg 580.

The Applicant on the other hand insisted that, the dismissal of the first application before the Magistrate with extended jurisdiction denied him his right as the date of the judgment was not mentioned.

Having considered the background of this matter and the submission by the parties, I am inclined to say that, this application is a duplication of the matter that was already dealt with by the court with competent jurisdiction. A Magistrate with extended jurisdiction stands in the shouse of a High Court Judge. A decision made by a Magistrate with extended jurisdiction is only appellable to the court of Appeal. As the applicant has not claimed errors in face of records in the decision made by Hon-Kobero, RM (with extended jurisdiction).

I hesitate from taking the proposition by Ms. Tusaje that, the available remedy was to apply for Review. From his wording, the applicant was not satisfied with decision of the Magistrate with extended jurisdiction denying him extension of time. Thus the available remedy was to appeal against the decision of the Magistrate with extended jurisdiction in DC. Misc. Criminal Application No. 4 of 2020.

In the event therefore I find this application incompetent filed before this court. The same is hereby struck out.

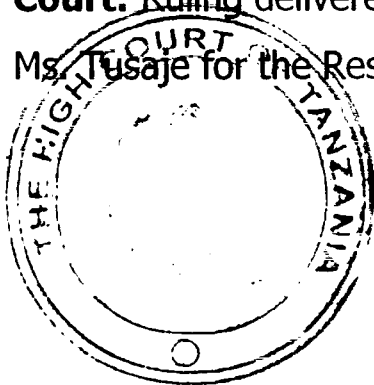


SGD: D. C. Kamuzora

JUDGE

26/07/2021

Court: Ruling delivered this 26/07/2021 in the presence of Applicant and Ms. Tusaje for the Respondent. Right to appeal explained.



D. C. Kamuzora

JUDGE

26/07/2021