

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
SONGEA DISTRICT REGISTRY
AT SONGEA

MISCELLANEOUS CRIMINAL APPLICATION NO. 18 OF 2022

(Originating from Criminal Case No. 37 of 2016 Tunduru District Court)

NEHEMIA TOGOLANI@ KIONDO.....APPLICANT

VERSUS

THE REPUBLICRESPONDENT

RULING

Date of last order: 01/08/2022

Date of Ruling: 01/08/2022

MLYAMBINA, J.

This is an application for extension of time within which the Applicant can lodge Notice of Appeal and Appeal out of time. The application is made by way of chamber summons under *Section 361 (2) of the Criminal Procedure Act [Cap 20 R. E. 2019]* and it is supported with the affidavit of Wilson Edward Ogunde, the Applicant's Counsel.

The major reasons that can be deduced from the supporting affidavit are that: *One*, the Applicant lodged Notice of Appeal timely after the trial Court decision on 7th January, 2022 but his Notice of Appeal was struck out for being incompetent. *Two*, the decision of the Tunduru District Court is tainted with illegalities which has occasioned injustice on the part of the Applicant which can be corrected by extending time to appeal only. *Three*,

the illegalities are inter alia that exhibits P1, P2, P3, P4, P5 and P6 were tendered in evidence by the State Attorney who was not under oath. *Four*, this application was brought promptly without delay after *Criminal Appeal No. 10 of 2022* was struck out.

On 1st August, 2022 when the application came for hearing, Senior learned State Attorney Shose Naimani had no objection to the application. She urged the Court to grant this application so that the parties may be heard on the merits or demerits of the intended appeal.

Having gone through the supporting affidavit, I find there is no good reason to deny this uncontested application.

In the event, the application stands granted. The Applicant is given seven (7) days' time to lodge his Notice of Appeal and Petition of Appeal out of time from the date of this order. It is so ordered.

 **Y. J. MLYAMBINA**
JUDGE
01/08/2022

Ruling delivered and dated 1st day of August, 2022 in the presence of Senior Advocate Wilson Ogunde and Advocate Henry Kitambwa for the Applicant and Senior learned State Attorney Shose Naimani for the Respondent.



Y. J. MLYAMBINA

JUDGE

01/08/2022