

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

**DISTRICT REGISTRY**

**AT TABORA**

**MISC. CRIMINAL APPLICATION NO. 9 OF 2022**

*(Originating from Igunga District Court in Criminal Case No. 71 of 2021)*

1. **HAMIS S/O JILALA @ KWABI**  
2. **MOHAMED S/O ATHUMAN @KASSIMU** } .....APPELLANT

**VERSUS**

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

**RULING**

*Date: 18/7/2022 & 22/7/2022*

**BAHATI SALEMA, J.:**

Before this court, the applicants **HAMIS S/O JILALA @ KWABI** and **MOHAMED S/O ATHUMAN @KASSIMU** pray to this court for an extension of time to lodge both notice and petition of appeal against the decision of the District Court of Igunga, Tabora in Criminal Case No.71,72 and 73 of 2021.

The application has been brought under section 361(2) of the Criminal Procedure Act, Cap. 20 and section 14 of the Law of Limitation Act, Cap 89, and it is supported by an affidavit of both appellants.

It is deposed in paragraphs 4, 5, 6, and 7 of the affidavit in support of the application that he gave notice of appeal to the trial court as required by law.

Owing to the length of the custodial sentence imposed on everyone they were all relocated to Uyui Central Prison at Tabora for want of maximum security. This was on 22/11/2022.

That, until at the time of their relocation to Tabora, they didn't know the fate of their appeals as the trial court had not yet available with the necessary appeal materials for us to marshal their appeal.

While at Uyui Prison at Tabora, the trial court dispatched to them copies of judgments and proceedings in all cases on 07/05/2022 after a series of requests for the same.

That, they couldn't lodge respective petitions of appeal because the relevant notices of appeal they gave to the trial court were nowhere to be seen. Neither in the prisoner's record file here at Uyui Prison nor the registrar of the District Court of Igunga or Igunga Prison.

Hence necessitated the applicant for an extension of time to this court, which vide Misc. Criminal Application No.9 of 2022.

When the matter was called on for hearing, the applicants were self-represented while Mr. Merito Ukongoji, learned State Attorney for the Republic.

The applicant being layperson prayed to this court to adopt the affidavits to form part of his application.

In reply, the respondent supported the application. The respondent submitted that the applicants affidavit in paragraphs stated have provided sufficient reasons to grant the application. He prayed to this court to grant the application as prayed.

In rejoinder, the applicant had nothing more to add.

Having carefully heard submissions from both parties, the issue is whether the application has merit.

Section 361(2) of the Criminal Procedure Act, Cap. 20 provides for the extension of time upon sufficient reasons.

The court has gone through paragraphs 4.5, 6, and 7 of the affidavits and found that the applicants have shown sufficient reasons for the extension of time. As rightly conceded by the State Attorney, the applicant through his affidavit has adduced sufficient cause for their delay.

Therefore, this court is satisfied that the applicant has shown sufficient reasons for extension of time and it is hereby granted. The applicant is to lodge a notice of appeal 10 days and a petition of appeal within 30 days.

Order accordingly.



**A. A. BAHATI**

**JUDGE**

**22/7/2022**

Ruling delivered in chamber on this 22<sup>nd</sup> July, 2022 in the presence of the respondent Jainess Kihwelo for the Republic via virtual court link.



**A. BAHATI SALEMA**

**JUDGE**

**22/07/2022**

Right of Appeal fully explained.



**A. BAHATI SALEMA**

**JUDGE**

**22/07/2022**

