

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(SONGEA DISTRICT REGISTRY)

AT SONGEA

MISCELLANEOUS CRIMINAL APPLICATION 16 OF 2022

(Originating from Economic Case No. 18 of 2019 before Namtumbo District Court)

AWAMU MAHURU SALUMAPPLICANT

VERSUS

THE REPUBLIC..... RESPONDENT

RULING

Date of last order: 20/07/2022

Date of Ruling: 12/08/2022

U. E. MADEHA, J.

The Applicant by way of chamber summons filed this application under *Section 361(1) (d) and (2)(a) of the Criminal Procedure Act [Cap 20 Revised Edition 2022]* seeking orders of extension of time to file an appeal in this Court. The chamber summons is supported by an affidavit sworn by the Applicant.

At the hearing of this application, the Applicant had no representation whereas the Respondent was represented by Mr. Frank Chonja, a learned State Attorney.

On his side, Mr. Frank Chonja had no objection to the Applicant's prayer. He supported the Applicant's application for extension of time in order to file an appeal. As a result, the Applicant had nothing to submit.

The reason by the Applicant for requesting an extension of time to appeal as depicted under his affidavit are briefly as follows: That on 16th September 2021, the Applicant was charged, convicted, and sentenced to serve twenty (20) years imprisonment for the offence of unlawful possession of government trophies contrary to *Section 86 (1) (20 (b) of the Wildlife Conservation Act No. 5 of 2009*.

That, right after the conviction and sentence he lodged a notice of appeal in the required time save that he lodged it in the wrong Court. But after the appeal was called for the hearing, the High Court discovered that the notice of appeal was lodged in the wrong Court instead of the subordinate Court where the Appellant was tried. Moreover, he stated that the right of appeal is not only a statutory but a constitutional right.

On my side, I have gone through the application and the reasons in the supporting affidavit plus the petite submission from both sides. I do agree with the Applicant that it is his statutory right to appeal against the

decision of the Trial Court bearing into mind that *Section 359 (1) of the Criminal Procedure Act [Revised Edition 2022]* read with *Article 13(6)(a) of the Constitution of the United Republic of Tanzania of 1977 as amended from time to time* permits any aggrieved party to lodge an appeal. The circumstances as whole reveal that the Applicant promptly attempted to pursue his right. Hence, I find that there is no good reason to deny this uncontested application.

In the event, the application stands granted as prayed. The Applicant is given ten (10) days' time to lodge his Notice of Appeal and Petition of Appeal, after being availed with the copies of the ruling. Order accordingly.

DATED at SONGEA this 12th Day of August 2022



U.E. MADEHA

JUDGE

12/08/2022