

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE DISTRICT REGISTRY OF BUKOBA)
AT BUKOBA

MISC. CRIMINAL ECONOMIC APPLICATION NO. 06 OF 2021

(Arising from Biharamulo District Court at Biharamulo in Economic Case No. 2 of 2018)

AVIT GENADIO & ANOTHER.....APPLICANTS

VERSUS

REPUBLIC.....RESPONDENT

RULING

Date of Ruling: 13.01.2022

Mwenda J,

This is an application for extension of time to file notice of intention to appeal and appeal out of time. It is brought under section 361 (2) and 392 A (2) of the Criminal Procedure Act [CAP 20 R.E 2019].

When this application came for hearing on 6th January 2022 applicants appeared in person while the respondent was represented by Mr. Juma Mahona learned State Attorney.

During hearing of this application, the applicants had nothing to submit rather they prayed this court to consider the contents of their affidavit in making its findings.

When called to argue this application on behalf of the respondent republic, Mr. Juma Mahona, learned state attorney informed this court that they are not

opposing this application. His reasons in support of their position are that the applicants have been knocking the doors of this court several times searching for justice.

He further submitted that, they filed Misc. Criminal Application No. 63 of 2020 before this court seeking leave to file notice of intention to appeal and appeal out of time in which on 24th November 2020 they were granted. He said, having been granted leave they filed Economic Appeal No.2 of 2020 which was struck out for being incompetent on 23rd July 2021 hence the present application.

He concluded by submitting that, the applicants have advanced sufficient cause to be granted extension of time.

It is important to note that the applicants were convicted by Biharamulo District Court on 02.10.2019. following their conviction, they lodged Criminal Appeal No. 120 of 2020 in time. This appeal was struck out by Hon. Resident Magistrate with extended jurisdiction for being filed on a wrong registry. The said appeal was filed as a normal Criminal Appeal instead of being filed as an Economic Criminal Appeal.

Following that order, the applicants lodged Misc. Criminal Application No. 63 of 2020 seeking extension of time to lodge notice of intention to appeal as well as leave to appeal out of time. The said prayers were granted on 24.11.2020 and the applicants filed Economic Appeal No. 02 of 2020. This appeal was then struck out by this court on 23.07.2021 for failure to lodge a notice of intention

to appeal as was ordered on 24.11.2020 in Misc. Criminal Application No. 63 of 2020. The applicants did not end up there, they then preferred the present application.

Following the trend through which the applicants have struggled to pursue their rights it is evident that they have been acting with due diligence. It is important to note that their first appeal was filed in time but was struck out for being filed in wrong registry, i.e. (Criminal Appeal No. 120 of 2020). By striking out the said appeal, the applicants found themselves already out of time in pursuit to their right.

This court is therefore of the view that errors which led to striking out their appeals that is Criminal Appeal No. 120 of 2020 and Economic Appeal No. 2 of 2020 was due to fact that they are laypersons who had no legal representation. As was rightly submitted by the learned state attorney, since the applicants have immediately after conviction been knocking at the doors to this Court, this suffices sufficient reasons for extension of time to lodge notice of intention to appeal and an appeal.

They are thus granted ten (10) days leave to file notice of intention to appeal and (45) days leave to file an appeal out from the date of this ruling.

It is so ordered.



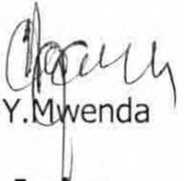

A.Y. Mwenda

Judge

13.01.2022

Ruling delivered in chamber under the seal of this court in the presence of the applicants Mr. Avit Genadio and Mr. Geradi John and in the absence of the respondent.




A.Y. Mwenda

Judge

13.01.2022