

**IN THE HIGH COURT OF TANZANIA
(MTWARA DISTRICT REGISTRY)
AT MTWARA
DC CIVIL APPEAL NO. 14 OF 2021**

*(Originating from The Ruling from Masasi District Court in Misc. Civil Application No.
12/2021)*

ANGELUS MROPE.....APPELLANT

VERSUS

OMARY HASSAN MTAUKILA RESPONDENT

JUDGMENT

Muruke, J

Appellant, Angelus Mrope, being dissatisfied by the Judgment, of the district court of Masasi at Masasi, has filed appeal raising two grounds namely: -

- 1. The trial magistrates erred in facts by denying the Appellant an extension to file appeal out of time while knowing that a copy of judgment was supplied to the Appellant at late dates a fact that was never disputed by the Respondent during hearing of the Application. Thus arriving to erroneous ruling.*
- 2. That the trial magistrate erred in facts by holding that the appellant could file his appeal orally before the district but I clearly stipulated that I needed the assistance of a lawyer who also demanded for a copy of Judgment to prepare ground of appeal, thus arriving to erroneous ruling.*



Gist of the appeal is failure by district court to grant extension of time sought by the appellant.

It is settled principle of law of the land that, in application for extension of time the applicant must show that there is sufficient reason/good cause for the delay. This was held in the case of **The International Airline of the United Arab Emirates V. Nassor Nassor, Civil Application No. 569/01 of 2019 CAT** (unreported) that;

"It is trite law that in an application for extension of time to do a certain act, the applicant must show good cause for failing to do what was supposed to be done within the prescribed time."

However, despite that constitutional right, yet to extend time is purely vested to the discretion of the court, which discretion always is exercised judiciously, upon sufficient cause. Indeed, what amount to good cause/sufficient cause is not define, but it is the duty of the court to treat each case depending on its circumstances, as stated in various cases including in the case of **Emmanuel Bilinge Vs. Praxeda Ogwever & Another, Misc. Application No. 168 of 2012** (unreported) stated that;

"What constitutes reasonable or sufficient cause has not been defined under the section because that being a matter for the court's discretion cannot be laid down by any hard and fast rules but to be determined by reference to all the circumstances of each case."

Similar principle was stated in the case of **Regional Manager Tanroads Kagera Vs. Ruaha Concrete Co Ltd, Civil Application No. 96 of 2007**, where the Court observed the following:

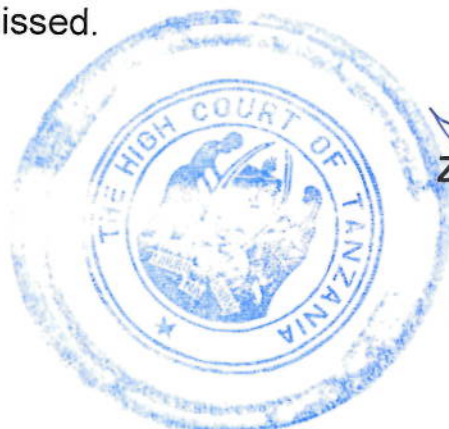


*"What constitutes sufficient reasons cannot be laid down by any hard or fast rules. This must be determined by reference to all the circumstances of each particular case. This means **the applicant must place before the court material which will move the court to exercise judicial discretion in order to extend time limited by rules**" (emphasis supplied).*

In the case of **Zaida Baraka & 2 Others Vs. Exim Bank (T) Limited, Misc. Commercial Cause No. 300 of 2015** (unreported), when quoted the principle developed in the case of **Lyamuya Construction Company Ltd Vs. Board of Registered Trustee of Young Women's Christian Association of Tanzania, Civil Application No. 2 of 2010** (unreported) the Court stated that;

"As a matter of general principle, it is the discretion of the court to grant extension of time. But that, discretion is judicial and so it must be exercised according to the rules of reason and justice and not according to private opinion or arbitrarily."

Looking at affidavit filed at the district court, there is nothing worth said by the applicant now appellant to convince court to grant extension sought at the district court. Thus, two grounds of appeal, lacks merits, Appeal is dismissed.



A handwritten signature in blue ink, appearing to read "Z. G. Muruke".

Z. G. Muruke

Judge

02/11/2022

Judgment delivered in the presence of appellant and in the absence of the respondent.




Z. G. Muruke

Judge

02/11/2022