

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

**TEMEKE HIGH COURT SUB - REGISTRY**

**(ONE STOP JUDICIAL CENTRE)**

**AT TEMEKE**

**CIVIL APPEAL NO. 14 OF 2022**

*(Original Misc. Civil Application No. 16/2021 of the District Court of Temeke at One Stop Judicial Centre before Hon. Swai - SRM)*

**EMMANUEL JOHN GELAS ..... APPELLANT**

**VERSUS**

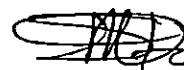
**JACKLINE PHANUEL WAMBURA.....RESPONDENT**

**JUDGMENT**

*21/07/2022 & 15/12/2022*

**OPIYO, J**

The appellant applied to the district court for extension of time to appeal out of time. The major reason for delay as found in his affidavit supporting the application is that he was supplied with a copy of the judgment for appeal purpose while the appeal period of 30 days had expired. The district court found that the appellant had not advanced sufficient cause for the delay because in terms of the provisions of GN. 312 of 1964, it is not mandatory to attach a copy of the judgment to the petition of appeal. The appellant was aggrieved. He has appealed on two grounds of appeal which boils down to one major complaint.



- i. That the district court erred to dismiss the application while the appellant had disclosed sufficient grounds for the delay.*

The appeal was argued by way of filing written submissions. The appellant has submitted that being a lay person a copy of the judgment was important for getting legal assistance to draft the grounds of appeal.

The respondent has replied that the stated reason for delay does not demonstrate a sufficient cause. In rejoinder, the appellant has reiterated that he acted diligently in pursuit of the copy of the judgment, but the court frustrated him.

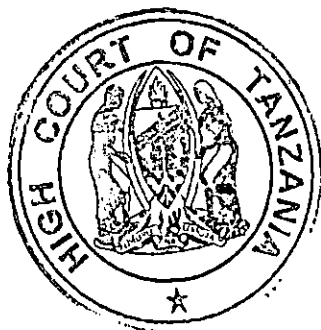
The principle is that extension of time for appeal purpose can be granted on demonstration of a sufficient cause for the delay and accounting for each day of the delay. Failure to account for even a single day for the delay can lead to denial of the prayer.


Indeed, the appellant being a lay person was entitled to a copy of the judgment for his use including asking for legal aid. However, the appellant also might have requested the legal aid provider to peruse the



trial court record and proceed with the drafting of the grounds of appeal. But that did not happen in this case and it can rarely happen in other case in practice. This is because in most cases these legal aid personnel require to be availed with relevant documents including court decisions to even get started. This is possibly due to overwhelming number of clients they have to attend or costs involved in such follow ups that cannot be covered by their clients or their office. I, therefore, considering the level of understanding observed on the applicant, expecting him to narrate such decision without the relevant document for the purpose of composing appeal may not be unrealistic. Therefore, in the situation of this case, failure to be supplied with a copy of judgment and decree in time is a sufficient cause for the delay.

The applicant's prayer is therefore granted. He has to file the intended appeal within 14 days from the date of this ruling. No order as to costs





**M. P. OPIYO**

**JUDGE**

**15/12/2022**