

**IN HIGH THE COURT OF TANZANIA  
(MTWARA DISTRICT REGISTRY)  
AT MTWARA**

**MISCELLANEOUS CRIMINAL APPLICATION NO.48 OF 2021**

*(Originating from District Court of Lindi at Lindi in Criminal Case No.55  
of 2020)*

**HAMISI MOHAMED BAKARI.....APPLICANT**

***VERSUS***

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

**RULING**

*Date of Last Order: 28/2/2022*

*Date of Ruling: 02/03/2022*

**LALTAIKA, J.:**

This is an application for extension of time to file petition of appeal against the judgment of the District Court of Lindi, at Lindi in Criminal Case No.55 of 2020. The application is brought under section 361(2) of the Criminal Procedure Act [Cap. 20 R.E. 2019]. The application is supported by an affidavit affirmed by the applicant. On her part, the respondent has not filed a counter affidavit in reply to resist the application.

During the hearing, the applicant appeared in person, unrepresented whereas Ms. Faraja George, learned Senior State Attorney appeared for

the respondent- the Republic. The applicant submitted that he withdrew his previous appeal because it was considered out of time. Having done so, it was his prayer that this court allows him to appeal out of time so that his appeal could be heard on merits. The applicant advances his reasons for the delay to file his appeal on time as delayed response of the district court of Lindi when he was requesting to be supplied certified copies of the proceedings and judgment. The applicant submitted further that other grounds for the delay are featured in his affirmed affidavit.

On the part of the respondent, Ms. George, the learned Senior State Attorney submitted that after going through the reasons for delay as per the affidavit and oral submission by the applicant it was her opinion that the application be allowed.

I have gone through the application and attentively followed through the submissions by the parties. It is trite law that an application for extension of time is entirely in the discretion of the court to grant or refuse and that, the extension of time may only be granted where the applicant has shown sufficient or good cause(s) for the delay.

In the present application, the reason for the delay as relied on by the applicant are **one**, failure by the District Court of Lindi to supply him with certified copies of the proceedings and judgment. **Two**, as averred at paragraph 6 of the affidavit, as a prisoner, the applicant's freedom is curtailed as he remains detained in prison hence unable to access legal facilities and ease acquisition of the necessary documents for filing the intended appeal on time. **Three**, not being a person trained in law, the applicant was not aware of the limitation imposed by law in filing the appeal to this court. These reason sound very convincing to me.

Nevertheless, I must still ask myself do they amount to good cause capable of moving this court to grant the prayer? I am aware that the law in our jurisdiction does not define what amounts to good cause. In this regard, I wish to refer the decision of the Court of Appeal of Tanzania in **Regional Manager, Tanroads Kagera vs. RUAHA Concrete Company Ltd.**, Civil Application No.90F 2007 (Unreported) whereby it was observed that: -

"Sufficient reasons cannot be laid down by any hard and fast rule. This must be determinedly in 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 its judicial discretion in order to extend the time."

In view of the above holding of the Court and cognizant to special circumstances as narrated by the applicant

I am convinced that the applicant has explained sufficient reasons which warrant this court to exercise its discretion to grant extension of time sought. Thus, the prayer is hereby granted. The applicant is given forty-five (45) days effective from the date of this ruling to file his petition of appeal.

It is so ordered.



**E.I. LALTAIKA**

*E.I. Laltaika*  
**JUDGE**

**02.03.2022**

This ruling is delivered under my hand and the seal of this Court on this 2<sup>nd</sup> day of March, 2022 in the presence of Mr. Wilbroad Ndunguru, State Attorney and the applicant who has appeared in person, unrepresented.



**E.I. LALTAIKA**

A handwritten signature in black ink, appearing to read "E.I. Laltaika", written over the printed name and title.

**JUDGE**

**02.03.2022**