

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

DISTRICT REGISTRY

AT TABORA

MISC. CRIMINAL APPLICATION NO. 10 OF 2023

*(An Application for extension of time to lodge the petition of appeal out of time*

*from the District Court of Kaliua District at Kaliua*

*Original Criminal Case No. 110 Of 2021)*

MALANDO S/O ROBERT.....1<sup>ST</sup> APPLICANT

ELISHA S/O MOSES.....2<sup>ND</sup> APPLICANT

VERSUS

THE REPUBLIC .....RESPONDENT

RULING

Date: 5/6/2023 & 5/6/2023

BAHATI SALEMA, J.:

Before this court, the applicants **MALANDO S/O ROBERT and ELISHA S/O MOSES** pray to this court for an extension of time to lodge a petition of appeal against the decision of the District Court of Kaliua, Tabora in Criminal Case No.110 of 2021.

The application has been brought under section 361(2) of the Criminal Procedure Act, Cap. 20 and it is supported by the affidavits of **MALANDO S/O ROBERT and ELISHA S/O MOSES**.

It is deposed in paragraphs 3, 4,5 and 6 of the affidavit in support of the application that immediately after conviction and upon entering prison they gave notice of intention to appeal to the trial court as required by law. Owing to the length of the custodial sentence imposed upon them, they were relocated to Uyui central prison for want of maximum security on 23/8/2021.

While at Uyui Central prison, they started a long but not tedious process of inquiring about the necessary records for appeal purposes from the trial court which eventually bore fruit on 18/3/2022 when they were served with all necessary records pertaining to their case for appeal purposes. They prepared petitions of appeal which were endorsed by the officer in charge –Uyui central prison, and later, registered online on 17/4/2022 at 15:03:56 hrs. Until at the time of preparing the application, they have not heard anything from the Deputy Registrar nor been summoned to appear for the prosecution of their joint appeal.

Through the admission office of Uyui Central prison, they were informed that they have made an inquiry at the registry of the High Court to their dismay, their application does not exist before the high court nor feature in the online E- case registration portal of the judiciary of Tanzania.

That there is a point of law involved in this appeal of sufficient importance touching on the propriety of the conviction, in that the

decision of the trial court is marred by both procedural and substantive irregularities that need to be looked at by this court.

Hence necessitated the applicant for an extension of time to this court, which vide Misc. Criminal Application No.10 of 2023.

When the matter was called on for hearing, the applicants were unrepresented while learned Mr. Dikson Swai and Ms. Livina Rwebangira learned State Attorneys for the Republic.

The applicants being laymen prayed to this court to adopt their affidavits to form part of their application.

In reply, the respondent supported the application. The respondent submitted that the applicant's affidavits in paragraphs 3,4,5,6 and 7 have provided sufficient reasons to grant the application. He prayed to this court to grant the application as prayed.

In rejoinder, the applicant had nothing more to add.

Having carefully heard submissions from both parties, the issue is whether the application has merit.

Section 361(2) of the Criminal Procedure Act, Cap. 20 provides for the extension of time upon sufficient reasons.

The court has gone through para 3,4, 5, and 6 of the affidavit and found that the applicant has shown sufficient reasons for the extension

of time. As rightly conceded by the State Attorney, the applicant through his affidavit has adduced sufficient cause for his delay.

Therefore, this court is satisfied that the applicants have shown sufficient reasons for an extension of time, which is hereby granted. The applicants are to lodge a petition of appeal within 30 days from the date of the ruling.

Order accordingly.



**A. BAHATI SALEMA**  
**JUDGE**  
**5/6/2023**

**Court:** Ruling delivered in presence of both parties.



**A. BAHATI SALEMA**  
**JUDGE**  
**5/6/2023**

Right of Appeal fully explained.



**A. BAHATI SALEMA**  
**JUDGE**  
**5/6/2023**