

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB-REGISTRY OF DAR ES SALAAM**

AT DAR ES SALAAM

MISC. CRIMINAL APPLICATION NO. 5 OF 2022

ERNEST ZAMBI APPLICANT

VERSUS

THE REPUBLICRESPONDENT

***(Arising from the decision of the District Court of Bagamoyo at
Bagamoyo in Traffic Case No. 242 of 2021)***

RULING

2nd and 2nd February, 2023

KISANYA J.:

The applicant has moved the Court for an order of extension of time within which to file a notice of intention to appeal and petition of appeal to challenge the decision of the District Court of Bagamoyo at Bagamoyo, dated 27th September, 2021, in Traffic Case No. 242 of 2021. The application is filed under section 361 (2) of the Criminal Procedure Act [Cap. 20, R.E. 2019] (now R.E. 2022).

When this matter was called on for hearing today, Ms. Fidesta Uisso, learned State Attorney who appeared for the respondent Republic informed the Court that she was not contesting the application. Mr. Jacob Luoga, learned advocate for the applicant had

nothing to submit other than praying to the Court to grant the application.

I have considered that section 361 of the Criminal Procedure Act (supra) empowers this Court to extend time within which to appeal. However, the applicant must advance good cause for extension of time. Thus, the issue for determination by the Court is whether there is good cause.

The facts deposed in the supporting affidavit suggest that the applicant was not heard in Traffic Case No. 242 of 2021. That being the case, the applicant has raised a ground of illegality of the challenged decision. It is trite law that, illegality of the impugned decision is a good cause for extension of time. See for instance, the case of **Attorney General vs. Consolidated Holding Corporation and Another**, Civil Application No. 26 of 2014 (unreported) where it was stated thus:

"With regard to the last point of contentions as to illegality or otherwise of the challenged decision have now been accepted as a good cause for extension of time."

Applying the above stated position to the circumstances of this case, I find it apt to allow the application so that the said issue may be considered by this Court.

On the foregoing, the application is hereby granted. The applicant is directed to give a notice of intention to appeal and file his petition of appeal within a period of ten (10) days and forty five (45) days, respectively, from the date hereof.

DATED at DAR ES SALAAM this 2nd day of February, 2023.



S.E. KISANYA
JUDGE