

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE SUB-REGISTRY OF MANYARA  
AT BABATI**

**PC CIVIL APPEAL NO. 10 OF 2023**

*(Arising Misc. Civil Application No. 1 of 2023 in the District Court of Hanang, original Civil case No  
22/2022 of the primary court of Hanang district at Endasaak)*

**GODFREY ANSEMI .....APPELLANT**

**VERSUS**

**KIKUNDI MSIMAMO ..... RESPONDENT**

**RULING**

*20<sup>th</sup> & 23<sup>rd</sup> February, 2024*

***Kahyoza, J.:***

**Godfrey Anselmi**, the appellant, was adjudged by the primary court to pay to Kikundi Msimamo Tzs. 3,208,600.00 being principal sum borrowed and interest accrued on the principal. The primary court delivered the judgment on 05.12.2022. Unfortunately, **Godfrey Anselmi** delayed to appeal to the district court. He applied for extension of time to appeal out of time. The district court dismissed **Godfrey Anselmi's** application for extension time for want sufficient reason for extension of time.

The issue is whether **Godfrey Anselmi** disclosed sufficient reason for extension of time.

A brief background is that; **Godfrey Anselmi** applied to the district court for extension of time contending that he delayed to appeal

because the primary court did not supply him a copy of judgment on time. He submitted that the Primary Court delivered the judgment on 05.12.2022, and on 12.12.2022, he wrote a letter requesting for the copy of judgment, but the same was supplied to him on 25/01/2023. He contended that he obtained a copy of the judgment after the time within which to appeal had expired. He lodged an application for extension of time on 14/2/2023 to the district court. The district court found that since the appellant was not required to attach the judgment of the primary court, then, the delay to supply him the copy of the judgment was not a sufficient reason for extension of time.

The appellant's grounds of appeal raised only one issue whether delay to obtain a copy of judgment of the primary court was a good sufficient reason for extension of time.

The appellant submitted during the hearing that the district court erred to rule out that he did not disclose sufficient reason for delay as the primary court delayed to supply him a copy of the judgment.

The respondent argued that the applicant failed to adduce sufficient reason to the district court to extend time within which to appeal.

It is settled that a person aggrieved by the decision of the primary Court is required to appeal to district court within 30 as per **Section 20 (3) of the Magistrate Court Act**, [Cap. 11 R.E 2019], which provide that-

*"Every appeal to district shall be by the way of petition and shall be filed in the district court within thirty days after the date of the decision or order against which the appeal is brought".*

It is not a legal requirement for a person appealing against the decision of the primary court is not bound to attach copy of the judgment. This Court in **Gregory Raphael Vs. Pastory Rwehabula** [2005] TLR 99 where it was held that-

*"Attachment of copies of decree or judgment along with the petition of appeal is not a legal requirement, and that the filling process is complete when petition of appeal is instituted and upon payment of requisite fee".*

The above position was maintained in the case of **James Petro Ndaki Vs. Nyamala Wangaluke**, Probate Civil Appeal No. 9 of 2019 of which was held that-

*"Therefore, it is clear that the document that the applicant was allegedly waiting for was of no use in his journey to this court. Thus, this court is of the considered opinion that the*

*applicant provided no sufficient cause to grant him leave to appeal out of time. The application is accordingly dismissed”.*

The issue is whether the fact that the appellant delayed to obtain a copy of judgment of the primary court was sufficient reason to appeal. It is trite law that an application for extension of time is entirely in the discretion of the court to grant or refuse, thus, it may be granted where it has been sufficiently established that the delay was due to sufficient cause and that the said delay (if any) was not caused by his negligence. See **Mumello Vs. Bank of Tanzania** [2006] 1 EA 227 (CAT).

The district court exercising its discretion ruled out that the appellant did not disclose sufficient reason for delay as the copy of judgment was not required to be attached to the appeal.

I am alive of the position taken by this court that a *copy of judgment is necessary for the purposes of framing a sound memorandum of appeal*, for that reason delay to obtain a copy of judgment amounts to good ground for extension of time. See **Mary Kimaro Vs. Khalfan Mohamed** [1995] TLR 202 and **Mary Mchome Mbwambo and Another Vs. Mbeya Cement Company Ltd**, [2017] TLS LR 277.

In other cases of **Yahaya Rashidi and Another Vs. Kassim Masudi and 11 Others**, PC Civil Appeal No. 18 of 2021 Hc Kigoma (Unreported) and **Mohamed Waziri Vs. Aisha Juma**, PC Matrimonial Appeal No. 03 of 2019 – HC- Dodoma (Unreported) this Court took a position that a copy of judgment is very important document from which sound of appeal can be drawn.

The appellant applied in writing to be supplied with a copy of the judgment on time but the trial court delayed to supply him a copy he must not be blamed for delay to appeal. Indisputably, the appellant was not required to attach a copy of the judgment to the memorandum of appeal but he needed it to prepare a sound memorandum of appeal.

I am of the considered view, for the interest of justice, that, where a party writes a letter immediately after delivery of the primary court decision, requesting to be supplied with the copy of judgment, or order but, the same is not supplied to him before the expiration of time to appeal to assist him to process the appeal such a delay constitutes a good ground for extension of time to appeal out of time.

In the end, I find that the appellant disclosed sufficient reason for delay, thus, the district court misapplied its discretion to dismiss his application for extension of time. Consequently, I allow the appeal, set

aside the dismissal order and grant the appellant 10 days within which to lodge the appeal to the district court. I make no order as to costs as the respondent is not to blame for the appellant's delay to appeal.

It ordered accordingly.

Dated at **Babati** this 23<sup>rd</sup> day of **February**, 2024.



---

**J. R. Kahyoza,**  
**Judge**

**Court:** Judgment delivered in the presence of the parties. B/C Fatina (RMA) present.

---

**J. R. Kahyoza,**  
**Judge**  
**23/02/2024**