

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF ARUSHA
AT ARUSHA**

MISC CRIMINAL APPLICATION NO. 31 OF 2023

*(Originating from the Resident Magistrate Court of Arusha at Arusha before Hon. I.
T. NGUVAVA-RM, Dated 10/08/2020)*

JUMA RAMADHANIAPPLICANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

21st Jan & 04th March 2024.

TIGANGA, J

This is an application for extension of time filed by the applicant seeking two orders, **one**, to file the Notice of Appeal out of time, and **two**, to file an appeal out of time. The application has been preferred under section 10 of the **Appellate Jurisdiction Act, (AJA)**, and sections 361(1) (b) and (2) of the **Criminal Procedure Act (CPA)**, (Cap 20 RE: 2019), section 14 (1), (2) of the **Law of Limitation Act** (Cap 89 RE: 2019) and any other enabling provision of the law.

The application was supported by an affidavit sworn and filed by the applicant himself, in the affidavit the appellant gave reasons for delay. The reason he gave is that, when he was supplied with copies of the proceedings he delayed getting an assistant from the prison authority in which he was held, despite all these hurdles he filed

the application. He in the end prayed for the application to be granted so that he could appeal and have his appeal heard.

On the other hand, Miss. Caroline Assenga submitted that the applicant moved the court under section 10 of the Appellate Jurisdiction Act, (AJA) and contended that, the application was improper because the provision used to move the Court applies to the proceedings of the Court of Appeal. He thus asked the application to be struck out for moving the court using the wrong law.

He reminded the Court of the principle governing the powers of the Court to grant or refuse an application for extension as propounded in a number of cases by citing the case of **Alliance Insurance Corporation Ltd vs Arusha Art Limited**, Civil Application No. 33 /2015 HC (unreported) that the applicant must account all the days delayed, must prove that the delay is not inordinate, or that there is a point of law of sufficient importance such as illegality in the decision sought to be challenged. She submitted that the applicant failed to give evidence to prove to the court that he is entitled to the extension of time, by proving the above factor. He said there was no chance of overwhelming success of the appeal.

convict who is in jail and has no representation of an advocate, wants to pursue his right of appeal and in the course of that endeavor commits a mistake that is minor and does not go to the root of the matter should be pardoned. The applicant moved the court by section 361(1) of the CPA, which is a relevant law, and at the same time cited section 10 of the Appellate Jurisdiction Act an irrelevant law, may be pardoned and should not be taken to have moved the court under the wrong provision in the circumstances where he also cited the relevant provision of the law. The argument by the learned state attorney is misconceived and irrelevant.

Having resolved that issue, the next question is whether the applicant has shown good cause to be entitled to the extension of time.

The term good cause has not been statutorily defined however; the case laws have defined the term good cause. One of the famous cases is the case of **Lyamuya Construction Company Limited vs The Board-Registered Trustees of Young Women's Christian Association of Tanzania**, Civil Application No. 02 of 2010 the Court of Appeal held *inter alia* that;

"As a matter of general principle, it is in the discretion of the Court to grant extension of time. But that discretion is judicial,

appeal he has proved his diligence and not apathy, negligence, or sloppiness in the prosecution of the action that he intends to take.

That said, and having found as I have done herein above, I find the applicant to have given good cause and is therefore entitled to extension of time as prayed. In the fine, I grant the application for extension of time for 10 days for the applicant to issue a notice of appeal and 14 days to file an appeal before this court.

It is so ordered.

DATED and DELIVERED at ARUSHA on 04th March 2024.



A handwritten signature in black ink, appearing to read "J.C. Tiganga", is written over a horizontal line.

J.C. TIGANGA

JUDGE