

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

**AT MTWARA**

**MISC. CRIMINAL APPLICATION NO. 39 OF 2022**

*(Originating from Tandahimba District Court Criminal case No. 89 of  
2021)*

**AWADHI ABDALAH DUBWA.....APPLICANT**

**VERSUS**

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

**RULING**

**Muruke, J.**

Awadhi Abdalah Dubwa was convicted by the District Court of Tandahimba for grievous harm contrary to section 225 of the Penal Code, Cap 16 R.E 2019, thus sentenced to perform community service for period of four (4) months and to pay compensation of Tshs. 1,000,000/= to the victim in criminal case No. 89 of 2021. He prepared notice of intention to appeal, but before filing his appeal, he, noticed that he was out of time, thus present application for extension of time to file appeal.

On the date set for hearing, respondent was represented by Florance Mbamba State Attorney, while appellant appeared in person. Applicant requested court to adopt his affidavit as his submission in support of the application. Respondent did not file counter affidavit and did not object the application in the cause of hearing.

Having gone through applicant's affidavit, it is worth insisting that, it is a constitutional right to whoever aggrieved to appeal to the superior court. Such right should be accompanied with a right to apply and granted extension of time if the delay was caused by sufficient reason. To deny extension of time, is equal to denying a person the right to exercise his Constitutional right to appeal. In application for extension of time the applicant must show that there is sufficient reason/good cause for the delay. This was held in the case of **The International Airline of the United Arab Emirates V. Nassor Nassor, Civil Application No. 569/01 of 2019 CAT** (unreported) at Dar es salaam that;

"It is trite law that in an application for extension of time to do a certain act, the applicant must show good cause for failing to do what was supposed to be done within the prescribed time."

However, despite that constitutional right, yet to extend time is purely vested to the discretion of the court, which discretion has to be exercised judiciously, upon sufficient cause. Indeed, what amount to good cause/sufficient cause is not defined, but it is the duty of the court to treat each case depending on its circumstances as stated in various cases including in the case of **Emmanuel Bilinge Vs. Praxeda Ogwever & Another, Misc. Application No. 168 of 2012** (unreported) stated that;

*"What constitutes reasonable or sufficient cause has not been defined under the section because that being a matter for the court's discretion cannot be laid down by any hard and fast rules but to be determined by reference to all the circumstances of each case."*

Similar principle was stated in the case of **Regional Manager Tanroads Kagera Vs. Ruaha Concrete Co Ltd, Civil Application No. 96 of 2007**, CAT (unreported) at Dar es salaam where the court observed the following:

*“What constitutes sufficient reasons cannot be laid down by any hard or fast rules. This must be determined by 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 judicial discretion in order to extend time limited by rules**” (emphasis supplied).*

In the case of **Zaida Baraka & 2 Others Vs. Exim Bank (T) Limited, Misc. Commercial Cause No. 300 of 2015** (unreported), when quoted the principle developed in the case of **Lyamuya Construction Company Ltd Vs. Board of Registered Trustee of Young Women’s Christian Association of Tanzania, Civil Application No. 2 of 2010** (unreported) the court stated that;

*“As a matter of general principle, it is the discretion of the court to grant extension of time. But that, discretion is judicial and so it must be exercised according to the rules of reason and justice and not according to private opinion or arbitrarily.”*

I have considered affidavit of the applicant, there is nothing said to convince this court, to grant extension sought. In totality application dismissed for lack of sufficient cause.



*Z. G. Muruke*  
**Z. G. Muruke**

**Judge**

**07/11/2022.**

Ruling delivered in the presence of Florence Mbamba State Attorney for the respondent, and applicant in person.



**Z. G. Muruke**

**Judge**

**07/11/2022.**

