

TANZANIA / JUDGMENT

CRIMINAL APPLICATION NO 41 01 OF 2024 GODFREY JOHN GUGAI 3 OTHERS VS DIRECTOR OF PUBLIC PROSECUTIONS

COURT
TANZLIIDECIDED
1 January 2024

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IN THE COURT OF APPEAL OF TANZANIA AT DAR ES SALAAM CRIMINAL APPLICATION NO. 41/01 OF 2024 GODFREY JOHN GUGAI.....1st APPLICANT
GEORGE MAKARANGA.....2nd APPLICANT LEONARD MABAI ALOYS..... 3rd APPLICANT VERSUS DIRECTOR OF PUBLIC PROSECUTIONS..... RESPONDENT (Application for Stay of Distress Warrant Originating from the Judgment of the High Court at Dar es Salaam) f Pomo. J.^ dated the 28th June, 2024 in Criminal Appeal No. 101 of 2022

RULING

15th July, 2024 FIKIRINI. J.A.: Godfrey John Gugai, George Makaranga and Leonard Mabai Aloys, all to be referred as the 1st, 2nd and 3rd applicants and another person not part of the present application, were charged before the Kisutu Resident Magistrates' Court in Criminal Case No. 382 of 2017. They were acquitted on 12th November, 2021 after a stretched prosecution which took almost four (4) years. The respondent, aggrieved by the trial court decision preferred an appeal to the High Court in Criminal appeal No. 101 of 2022. The High Court nullified the proceedings of the trial court as a result of which it ordered re-trial of Criminal Case No. 382 of 2017. Dissatisfied with the decision the applicants preferred an appeal to the Court. A notice of appeal in that regard was lodged on 1st July, 2024 as indicated vide annexure -

5. Meanwhile, the respondent on the 2nd July, 2024 served the applicants' Counsel with summons commanding the applicants to appear before the Resident Magistrates Court of Dar es Salaam at Kisutu. Consequent to that the applicants promptly lodged the present application by way of notice of motion in terms of sections 3A, 3B (1) of the Appellate Jurisdiction Act, Cap. 141 R.E. 2019 and rules 4 (1), 4 (2)
- (a) - (c), 11 (2), 11 (6) of the Tanzania Court of Appeal Rules, 2009 (the Rules), supported by the applicants joint affidavit. The respondent did not file affidavit in reply contesting the application. During the hearing, Mr. Nehemiah Nkoko learned Counsel appeared for all the applicants and Mr. Nassoro J. Katuga, learned Senior State Attorney appeared for the respondent. Mr. Katuga informed me that the application is not contested considering that

all the requirements had been fulfilled. Mr. Nkoko welcomed the consideration, and urged me to grant the application. I have examined the application and the joint affidavit deposed and find no reason to decline the uncontested application. I thus proceed to grant the application pursuant to rule 11 (2) of the Rules and suspend the execution of the distress warrant issued pending hearing and determination of the intended appeal. It is so ordered. DATED at DAR ES SALAAM this 15th day of July, 2024. P. S. FIKIRINI JUSTICE OF APPEAL The Ruling delivered this 15th day of July, 2024 in the presence of the Mr. Nehemiah Nkoko, learned counsel for the applicant and Mr. Nassoro J. Katuga, learned Senior State Attorney for the respondent, is hereby certified as a true copy of the original.

0. H. KINGWELE DEPUTY REGISTRAR COURT OF APPEAL 3

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CASE PAGE	https://chat.esheria.ai/case-law/tanzania/godfrey-john-gugai-v-director-of-public-prosecutions-StayofExecution-tanzlii-2024--6a3ea52d3b1caa9129826a98

Prepared on 14 October 2026 · Esheria