

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(SUMBAWANGA DISTRICT REGISTRY)**

**AT SUMBAWANGA**

**MISC. CRIMINAL APPLICATION NO. 35 OF 2020**

(C/O Sumbawanga DC Criminal Case No. 268 of 2020)

**DANIEL S/O CHIPUZI ..... APPLICANT**

**VERSUS**

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

**RULING**

Date: 19 & 19/08/2021

**Nkwabi, J.:**

The applicant is seeking extension of time within which to lodge a notice of appeal out of time. He intends to appeal to this court. The chamber summons was supported by the affidavit of the applicant. In the affidavit, the applicant averred that the delay was caused by factors outside his control which he mentioned therein.

The application was not resisted by the respondent as he did not file a counter affidavit. During the hearing Mr. Mwandoloma, learned Senior State Attorney for the respondent prayed this court to grant the application



observing that the application was brought under a proper provision which is section 361(2) of the Criminal Procedure Act Cap. 20 R.E. 2002.

Without much ado as I am aware of **Mosses Ndosi v Suzana Ndosi, Misc. Land application no 117 of 2013** S. Moshi, J. was cited with approval in the case of **Emmanuel Gidahotay v Gambanyashita Muhale Misc land application no 41 of 2017** Maige, J. (as he then was) *"that failure to file a counter affidavit is a signification that the application is not factually opposed."*

I grant the application for extension of time within which the applicant shall file notice of intention to appeal to this court. The applicant has to file the notice of intention to appeal within 7 days which shall start to run from tomorrow, 20<sup>th</sup> August 2021.

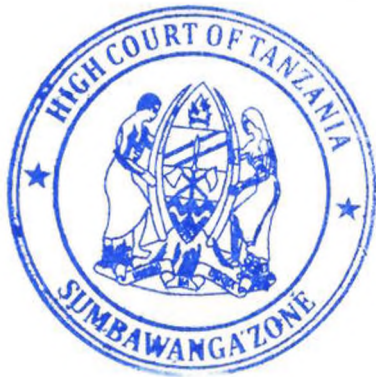
It is so ordered.

Dated at Sumbawanga this 19<sup>th</sup> day of August, 2021.



  
**J. F. Nkwabi**  
**JUDGE**

**Court:** Ruling delivered in chambers this 19<sup>th</sup> day of August 2021 in the presence of Mr. Fadhili Mwandomoma, learned Senior State Attorney for the Respondent and the applicant present in person.



  
**J. F. Nkwabi**  
**JUDGE**