

**IN THE HIGH COURT OF TANZANIA**  
**(DAR ES SALAAM DISTRICT REGISTRY)**  
**AT DAR ES SALAAM**

**CIVIL APPLICATION NO. 414 OF 2021**

*(Arising from Civil Appeal No. 177 of 2020)*

**SENEN EDMUND MPONDA ----- APPLICANT**

*VERSUS*

**RUPIN J. RAJANI ----- RESPONDENT**

*Date of Last Order: 07/10/2021*

*Date of Ruling: 13/10/2021*

**RULING**

**MGONYA, J.**

The Application before the Court is for leave so as the Applicant can file an Appeal to the Court of Appeal. The same is originating from Ruling of this Honourable Court by Hon. Kakolaki, J. delivered on **23<sup>rd</sup> July, 2021**.

The Application is supported with an Affidavit sworn by the Applicant's Advocate **ELISA ABEL MSUYA**. When the matter was tabled for hearing, the Respondent's Counsel proclaimed not to contest the Application.

Under those circumstances, and upon scrutinizing of Application and attached Affidavit thereto, this Court has been moved with paragraph 4 of the same which demonstrated the

intended grounds of Appeal to the highest Court of the Land.  
The same states:

“4.0 That it is intended to argue the following grounds in the intended appeal that: -

- i) The High Court Judge erred in law in holding that Ruling of the Trial Court *i.e* The Resident Magistrates’ Court of Dar es Salaam – Kisutu dated **17<sup>th</sup> July, 2020** is not a preliminary/interlocutory decision within the meaning of **S. 74 (2) of the Civil Procedure Code, Cap. 33 R.E. 2019.**
- ii) The High Court Judge wrongly interpreted of the words **“finally determining the suit”** to mean **“conclusively determining rights of parties”** as a result therefore, the Trial Judge erred in holding that the decision of the Trial Court is not appealable because the Applicant rights were not conclusively determined and he has an option of filing a petition before the same Resident Magistrate’s Court of Dar es Salaam – Kisutu.
- iii) The Trial Court wrongly interpreted applicability of the decision of the CAT in **“Chama cha**

**Walimu Tanzania vs. Attorney General  
Civil Application No. 151 of 2008"**

(unreported) and misapplied it in arriving at his  
Ruling dated **23<sup>rd</sup> July, 2021.**

After going through the same, this Court is satisfied that  
the above legal points that deserve to be determined by the  
Court of Appeal as prayed.

In the event therefore, the Application for leave is  
accordingly **GRANTED** as prayed.

I make no order as to costs.

It is so ordered.

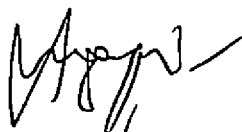


**L. E. MGONYA**

**JUDGE**

**13/10/2021**

**Court:** Ruling delivered in my chambers in presence of  
Ms. Regina Kiumba and Ndehurio Ndesamburo,  
Advocates for the Applicant, Mr. Claudio Msando,  
Advocate for the Respondent and Mr. Richard, RMA.



**L. E. MGONYA**

**JUDGE**

**13/10/2021**