

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUSIA

MISCELLANEOUS CIVIL APPLICATION NO. 57 OF 2016

LILIAN TABU

(Suing as next friend to **BERNARD MANYA SANYA**).....**PLAINTIFF/APPLICANT**

AND

NATIONAL SOCIAL SECURITY FUNDS.....**DEF.**
/RESPONDENT

RULING

The applicant's application is brought by way of Notice of Motion dated 27th April 2016 pursuant to section 79G of the Civil Procedure Act and any other enabling provisions of the law. The applicant is seeking for leave to be allowed to appeal out of time.

I have perused the affidavits by both parties and the submissions by their respective counsel. I have also perused the authorities relied on by both parties.

For an application of this nature to succeed, the applicant is required to persuade the court that the failure to appeal within the stipulated time was not deliberate or out of carelessness. In the instant application, I am satisfied that the application is merited.

The application is therefore allowed and the applicant given 21 days, from the date of this ruling, to file the intended appeal. Costs be in the cause.

DELIVERED and SIGNED at BUSIA this 18th day of October, 2017

KIARIE WAWERU KIARIE

JUDGE.