

**IN THE COURT OF
APPEAL AT NYERI**

(CORAM: ALI-ARONI, J.A. (IN

CHAMBERS) CIVIL APPLICATION NO.

E159 OF 2025 BETWEEN

ABDI TACHO GUYO.....APPLICANT

AND

THE CATHOLIC CHURCH MOYALE 1ST RESPONDENT

JOSEPH SODE 2ND RESPONDENT

(An application for extension of time to file notice and record of appeal out of time in an intended appeal against the judgment of Environment and Land Court at Isiolo (Oguttu Mboya, J.) dated 28th March 2025

in

ELC Appeal No. E015 of 2023)

RULING

1. Before the Court is an application brought mainly under **rule 4** of the Court of Appeal Rules (Court's Rules), seeking an extension of time to lodge a notice of appeal and file a record of appeal in an intended appeal against the judgment of the Environment and Land Court at Isiolo (Oguttu, J.) delivered on 28th March 2025.
2. The application is supported by the grounds on the face of

the application and the supporting affidavit of the applicant
Abdi

Tacho Guyo, dated 28th October 2025, wherein he deposes he was aggrieved by the judgement of the court; that in the proceedings he was represented by counsel; that despite instruction to counsel immediately after delivery of judgement he did not file the notice of appeal; therefore the delay in filing the notice of appeal and processing the appeal was not intentional on his part; it is excusable, justifiable and unavoidable; that he has an arguable appeal with a high chance of success; that no prejudice will be suffered by the respondents.

3. The respondents, though served with a hearing notice, did not respond to the application. None of the parties filed submissions despite the Court's directions.
4. Filing of an application is not an end in itself. A litigant is expected to prosecute his case by written or oral submissions as would be directed by the Court in line with **rule 58** of the Court's rules, which the applicant herein has failed to do.

Rule 58 provides as follows; -

(1) If, on any day fixed for the hearing of an application, the applicant does not appear or comply with directions, the application may be dismissed, unless the Court sees fit to adjourn the hearing:

Provided that the Court may order that an application may be heard by way of written submissions and where parties have filed written submissions, the court shall consider the submissions.

5. The applicant having failed to comply with directions to file his submissions the application remains unprosecuted and is dismissed. The respondents having failed to respond there will be no order on costs.

Dated and delivered at Nyeri this 18th day of February, 2026.

ALI-ARONI

.....
JUDGE OF APPEAL

*I certify that this is
a true copy of the
original.*

Signed
DEPUTY REGISTRAR

