



by  
way  
of  
reference  
from  
a  
decision  
of  
The  
learned  
Assistant  
Registrar  
of  
this  
court  
to  
a  
single  
Justice  
of  
Appeal.  
There  
is  
no  
indication  
as  
under  
what  
law  
this  
appeal  
or  
reference  
has  
been  
brought.  
I  
presume  
it  
was  
brought  
under  
Rule  
110  
of  
the  
Rules  
of  
this  
court.

The  
applicants  
in  
this  
matter  
were  
all  
the  
material  
time  
represented  
by

Mr.  
Eric  
Muhwezi  
and  
Mr.  
Latigo  
was  
for  
the  
respondent.  
Mr.  
Muhwezi  
practices  
in  
the  
name  
and  
style  
of  
MIS  
Muhanguzi,  
Muhwezi  
&  
Co.

Advocates  
whose  
address  
is  
NIC  
building  
2nd  
floor9  
(Annex)  
Pilkington  
Road  
P.  
O.  
Box  
7456  
Kampala.

At  
the  
hearing  
of  
this  
application,  
Mr.  
Muhwezi  
was  
absent.  
However  
one  
of  
his  
clients,  
the  
3rd  
applicant  
Mr.  
Steven  
Serwadda  
was  
present  
in  
court.  
Mr.  
Serwadda  
informed  
court  
that  
his  
counsel  
Mr.  
Eric  
Muhwezi  
was  
indisposed  
and  
applied  
for  
an  
adjournment  
on  
that  
account.

Court  
declined  
to  
grant  
the  
adjournment  
as  
no  
sufficient  
cause  
had  
been  
shown.

Mr.  
Serwadda  
himself  
an  
advocate  
was  
asked  
to  
proceed  
with  
the  
application  
as  
a  
party.

Mr.  
Serwadda  
urged  
grounds  
1  
&  
2  
of  
the  
Memorandum  
of  
Appeal  
together.

Basically  
that  
the  
bill  
of  
costs  
was  
drawn  
and  
filed  
against  
5  
applicants  
whereas  
the

case  
was  
at  
all  
material  
times  
against  
only  
3  
persons  
namely;

1.  
Asimwe  
Diana  
Jackline  
2.  
Henry  
Mugenyi  
3.  
Steven  
Serwadda  
He  
argued  
that  
Steven  
Karangwa  
and  
the  
Commissioner  
for  
Land  
Registration  
where  
not  
parties  
to  
the  
case  
and  
should  
not  
have  
been  
included  
in  
the  
taxation  
proceedings.

On  
the  
second  
ground,  
he  
argued  
that  
the  
respondent  
had  
committed  
contempt

of  
this  
court  
when  
they  
refused  
to  
obey  
the  
court  
order  
in  
Miscellaneous  
Application  
Number  
135  
of  
2009  
to  
deposit  
certificates  
of

title  
in  
court  
but  
instead  
sold  
the  
two  
titles  
to  
avoid  
execution  
in  
High  
Court  
Civil  
Suit  
No.266  
of  
2009  
from  
which  
the  
taxation  
proceedings  
on  
appeal  
in  
this  
court  
eventually  
arose.

At  
the  
hearing  
of  
this  
application,  
court  
brought  
to  
the  
attention  
of  
Mr.  
Serwadda  
the  
fact  
that  
the  
order  
of  
the  
Assistant  
Registrar  
of  
this  
court  
which  
directed  
the



respondent  
in  
this  
matter  
Dr.  
Aggrey  
Kiyingi  
to  
deposit  
the  
said  
land  
titles  
was  
signed  
on  
23rd  
day  
of  
November  
2009.  
The  
application  
itself  
was  
heard  
on  
20th  
October  
2009. This  
was  
ascertained  
from  
the  
record  
filed  
in  
this  
court  
by  
the  
applicants.

Court  
also  
brought  
to  
the  
attention  
of  
Mr.  
Serwadda  
the  
fact  
that  
his  
own  
Record  
of  
Reference  
at  
pages  
37

and  
40  
contains  
copies  
of  
the  
said  
land  
titles,  
two  
of  
them.  
The  
record  
indicates  
that  
the  
said  
titles  
had  
been  
transferred  
from  
the  
names  
of  
Dr.  
Aggrey  
Kiyingi  
the  
respondent  
herein  
to  
those  
of  
one  
Mohammed  
Ssekatawa  
on  
14th  
October  
2009.  
Accordingly  
there  
is  
no  
way  
Dr.  
Kiyingi  
could  
have  
deposited  
titles  
in  
court  
which  
were  
no  
longer  
his  
property  
at  
the  
time

when  
the  
order  
was  
made .

Upon  
realizing  
the  
above,  
Mr .  
Serwadda  
withdrew  
ground  
2  
of  
the  
Memorandum  
of  
Reference .

In  
reply  
Mr .  
Latigo  
learned  
counsel  
for  
the  
respondent  
urgued  
that  
the  
learned  
Assistant  
Registrar  
correctly  
dismissed  
the  
preliminary  
objection  
raised  
at  
the  
taxation  
hearing .  
The  
objection  
that  
the  
proceedings  
were  
in  
respect  
of  
5  
applicants  
yet  
the  
parties  
to  
the

case  
were  
only  
3,  
he  
argued  
was  
made  
without  
any  
basis.  
He  
contended  
that  
at  
all  
material  
times  
the  
parties  
to  
the  
application  
and  
appeal  
were  
five  
and  
not  
three.

He produced a notice of appeal in this matter to the Supreme Court that was prepared, drawn and filed by MIS Muhanguzi, Muhwezi & Co. Advocates.

It indeed indicates all the five applicants.

He also brought to the attention of court the order of this court from which the taxation proceedings emanated. The order is in respect of five

applicants,  
this  
order  
was  
also  
drawn  
and  
filed  
by  
MIS  
Muhanguzi  
and  
Muhwezi  
Advocates  
of  
the  
same  
address.  
Both  
the  
order  
and  
the  
notice  
of  
appeal  
above  
mentioned  
were  
signed  
by  
Mr.  
Eric  
Muhwezi  
himself.

He  
prayed  
for  
the  
dismissal  
of  
the  
application.

Since  
the  
2nd  
ground  
of  
appeal  
was  
withdrawn,  
I  
will  
not  
dwell  
on  
It.  
suffice  
to  
say

that  
had  
the  
advocate  
been  
more  
deligent  
he  
would  
have  
ascertained  
that  
Dr.  
Kiyingi  
had  
transferred  
the  
property  
to  
the  
thirdparty  
before  
the  
application  
was  
heard  
and  
before  
the  
order  
was  
made.  
This  
kind  
of  
laxity  
by  
an  
advocate  
is  
unacceptable  
at  
this  
court

Ground  
one  
of  
memorandum  
of  
Reference  
as  
already  
noted  
is  
also  
untenable.  
Counsel  
for  
the  
applicant  
himself  
drew

the  
order  
from  
which  
the  
taxation  
proceedings  
arose.  
The  
order  
named  
as  
applicants,  
5  
applicants  
and  
not  
3.

In  
his  
own  
notice  
of  
appeal  
the  
advocate  
names  
five  
intended  
appellants.

I  
do  
not  
understand  
how  
the  
same  
person  
could  
then  
insist  
that  
the  
matter  
was  
only  
in  
respect  
of  
three  
applicants.  
The  
Assistant  
Registrar  
in  
this  
matter  
was  
justified  
when



she  
dismissed  
the  
preliminary  
objection.

I  
find  
this  
application  
frivolous,  
a  
waste  
of  
court's  
time  
and  
abuse  
of  
court  
process.

This  
is  
a  
matter  
in  
which  
costs  
should  
have  
been  
awarded  
against  
the  
Advocate  
in person. I will not do so now.

This  
application  
must  
therefore  
be  
dismissed,  
and  
it's  
hereby  
dismissed  
with  
costs.

HON.  
MR. JUSTICE  
KENNETH  
KAKURU,  
JA  
31ST  
JULY  
2013

