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THE REPUBLIC OF UGANDA,

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

IN THE MATTER OF REFERENCE TO FULL BENCH FOR DECISION OF A
SINGLE JUSTICE OF APPEAL

(ARISING FROM CIVIL APPLICATION NO 40 OF 2022)

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[ARISING OUT OF CIVIL APPLICATION NO. 39 OF 2022]

[ARISING OUT OF HIGH COURT MISCELLANEOUS APPLICATION NO 843 OF
2021]

[ARISING OUT OF HIGH COURT MISCELLANEOUS CAUSE NO 287 OF 2021]

MALE H MABIRIZI K. KIWANUKA} APPLICANT

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VERSUS

ATTORNEY GENERAL}RESPONDENT

RULING OF CHRISTOPHER MADRAMA, JA

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After delivery of ruling in Civil Application No 40 of 2022, the Applicant Mr Male H. Mabirizi K. Kiwanuka applied to refer my decision to the full bench of the Court of Appeal on the ground that the sections 76 and 77 of the Civil Procedure Act, allows a notice of appeal to cover any interlocutory decisions made in the cause appealed from and I had erred not to consider this.

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Ms Mutesi, Assistant Commissioner who represented the Attorney General conceded to the reference application.

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Accordingly, a reference is hereby made for the full bench to consider whether the decision of the High Court dated 15th of February 2022 is a separate decision or not covered by the notice of appeal and this court erred to hold that it had no jurisdiction to consider those orders and grant the applicant temporary interim relief from imprisonment.



5 The Applicant shall formulate specific grounds of reference in his own words in writing within 7 days from today.

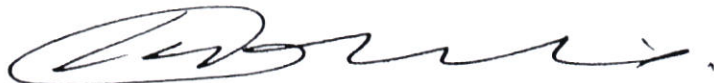
Secondly, the Applicant sought a temporary relief from imprisonment on terms of Court pending reference to the full bench under the inherent powers of the court encapsulated in rule 2 (2) of the Rules of this court.

10 I had ruled in the main application that I had no jurisdiction to release the Applicant on the ground that he had no pending appeal from the decision of the High Court dated 15th of February 2022 in respect of alleged additional contempts of court.

15 In the premises, I am *functus officio* and cannot stretch rule 2 (2) of the Rules of this court to reverse myself by making a positive order to release the applicant. I decline to release the applicant. Let him apply afresh to the full bench or apply to be released on bail pending appeal or application whichever remedy is appropriate.

Dated at Kampala the 25th of February, 2022.

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Christopher Madrama

Justice of Appeal