

THE REPUBLIC OF UGANDA
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA
CONSTITUTIONAL PETITION NO. 010 OF 2019

**(Coram: Egonda-Ntende, Musoke, Madrama, Mugenyi &
Gashirabake, JJCC)**

KAWESA RICHARD:.....PETITIONER

VERSUS

1. YOWERI KAGUTA MUSEVENI

2. ATTORNEY GENERAL:.....RESPONDENTS

JUDGMENT OF CHRISTOPHER GASHIRABAKE, JCC

The petitioner filed this Petition under **Article 137 (1), (2), (3), (4) and (7)** of the **1995 Constitution** challenging the constitutionality of the 1st respondent's act of asserting that he was immune from legal proceedings by virtue of being the President of Uganda, as a defence to a suit the petitioner filed against him.

Background

The petitioner, on 6th March, 2019, filed a suit against the 1st respondent in the High Court at Kampala (Commercial Division), viz. Civil Suit No. 160 of 2019. The petitioner claimed that the 1st respondent had infringed upon his copy right in a song titled "Another rap," by the latter singing the song and also claiming at as his own. The petitioner sought, inter alia, for the following reliefs: 1) that he is the author, producer and owner of the copyrights in the song in issue; 2) that the 1st respondent's use and registration of the copyright in the song without his knowledge, consent and without

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paying adequate compensation amounted to infringement of the petitioner's copyright in the song; 3) an order that the 1st respondent pays him compensation and royalties for the copyright infringement; and 4) a permanent injunction to restrain the 1st respondent from further infringement of the petitioner's copy right.

The 1st respondent filed a Written Statement of Defence in which he asserted that he was, by virtue of being the President of Uganda, immune from legal proceedings and sought for the dismissal of the petitioner's suit.

It is not clear from reading the Petition, whether the relevant suit has been disposed of. However, in their respective answers to the Petition the 1st and 2nd respondent claimed that the suit was dismissed.

The Petitioner contends that he sued the 1st respondent for a private act which was not committed in exercise of his powers as the President, and that therefore, he could not assert presidential immunity as a defence, in those circumstances. In this regard, he contended at paragraph 7 (h) of his Petition as follows:

“(h) Your Petitioner states that in any case the presidential immunity granted under Article 98 (4) of the Constitution is not absolute because;

(i) a president is enjoined to uphold and safeguard the Constitution and all the laws of Uganda and to promote the welfare of the citizens of Uganda under Articles 98 and 99 of the Constitution.

(ii) a president can be a proper and necessary party to legal proceedings in the Supreme Court challenging presidential elections under Article 104 of the

Constitution where he is sued for his personal actions during elections.

5 **(iii) presidential immunity can be lifted during proceedings for removal of the President from office before a tribunal or medical board sanctioned under Article 107 of the Constitution.**

(iv) a president can be a Complainant and witness in a criminal case prosecuted in a Court of law.”

The petitioner therefore contended that it was permissible to sue and
10 hold a sitting President liable, especially where he/she did the act constituting the cause of action in his private capacity. The petitioner asserted that the acts of the 1st respondent that were the subject of the relevant suit were done in his private capacity and therefore were not protected by presidential immunity.

15 The petitioner therefore prayed that this Court finds that the respondent acted unconstitutionally by raising the defence of presidential immunity to the relevant suit and to grant the following declarations and orders:

20 **“(i) The respondent’s defence in HCCS No. 160 of 2019; Kawesa Richard vs. Yoweri Kaguta Museveni and Anor, maintaining that his personal and private deed of registering and holding the copy right of the “You want another rap” song onto his name is protected by and/or enjoys presidential immunity from suit and legal liability under Article 98 (4) of the Constitution, contravenes and is inconsistent with Articles 1, 2, 20, 98 and**
25 **99 of the 1995 Constitution.**

(ii) The respondent’s defence in HCCS No. 160 of 2019; Kawesa Richard vs. Yoweri Kaguta Museveni & Anor maintaining that

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his personal and private deed of registering and holding the copyright of 'You want another rap' song onto his name is protected by and/or enjoys presidential immunity from suit and legal liability under Article 98 (4) of the Constitution, violates your Petitioner's right to own property, work for gain and earn from his profession, contravenes and is inconsistent with Articles 1, 2, 20, 26, 40, 98 and 99 of the 1995 Constitution.

(iii) The respondent's defence in HCCS No. 160 of 2019; Kawesa Richard vs. Yoweri Kaguta Museveni & Anor maintaining that his personal and private deed of registering and holding the copyright of 'You want another rap' song onto his name is protected by and/or enjoys presidential immunity from suit and legal liability under Article 98 (4) of the Constitution, violates your Petitioner's non-derogable right to be heard and the High Court's authority to adjudicate disputes which contravenes and is inconsistent with Articles 1, 2, 20, 21, 28, 44, 98, 99, 126, 128 and 139 of the 1995 Constitution.

(iv) An order of permanent injunction restraining the respondent from asserting claims to presidential immunity for his personal and private deeds or acts.

(v) An order directing the High Court Commercial Division to investigate and determine the appropriate civil redress in respect of alleged copyright infringement in HCCS No. 160 of 2019; Kawesa Richard vs. Yoweri Museveni & Anor.

(vi) An order for costs of the Petition.

(vi) Any other and further order as the Court may deem fit."

The evidence in support of the Petition is set out in the petitioner's affidavit in support of the Petition.

The 1st respondent filed an answer to the Petition opposing the Petition. He raised three objections to the Petition as follows:

“a) The issues raised in the Petition do not require interpretation of any provision of the 1995 Constitution.

b) There is no act or omission of the respondent as alleged by the Petitioner that requires interpretation of the 1995 Constitution.

c) The Petition has been commenced against the respondent contrary to the clear provisions of the Constitution, the law and practice of the Court.”

The 1st respondent averred that he is by virtue of **Article 98 (4)** of the **1995 Constitution** not liable to proceedings in any Court. Further, that whereas the 1995 Constitution creates exceptions to the rule under **Article 98 (4)**, such exceptions are limited and clearly spelt out.

The evidence in support of the 1st respondent’s answer to the Petition was set out in the affidavit of Mr. Edwin Karugire.

The Attorney General, although not sued by the petitioner, also filed an answer opposing the Petition. He raised three preliminary objections to the Petition as follows: 1) That the Petition is misconceived as it raises matters of enforcement of rights that should be filed in the High Court; 2) That the Petition does not raise any question for interpretation of any provision of the 1995 Constitution; 3) That the Petition is an abuse of Court Process as HCCS 160 of 2019 has been heard and disposed of and a ruling delivered.

On the merits, the 2nd respondent denied that the 1st respondent’s act of asserting presidential immunity as a defence to the relevant

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suit was unconstitutional. He prayed that the suit be dismissed with costs.

The evidence in support of the Attorney General's Answer is set out in the affidavit sworn by Mr. Jackson Kafuuzi Karugaba, the Deputy
5 Attorney General.

Representation

At the hearing, Mr. Arnold Kiwalabye represented the petitioner. Mr. Peter Kawuma represented the 1st respondent. Mr. George Kalemera, Commissioner Civil Litigation and Mr. Moses Mugisha, State
10 Attorney, both from the Attorney General's Chambers represented the Attorney General.

Analysis

I have carefully considered the pleadings, the submissions of counsel for all the parties, and the law and authorities cited in the
15 submissions. I have also considered other relevant authorities that were not cited.

I note that counsel for the petitioner proposed the following issues, to guide in the determination of the Petition:

- 20 “(i) ***Whether the Petition raises any question for constitutional interpretation.***
- (ii) ***Whether the Court's power to interpret the Constitution is barred by presidential immunity to the suit under Article 98 (4) of the Constitution.***
- 25 (iii) ***Whether the respondent's defence of presidential immunity to suit to deny the petitioner's copy right in the "Another rap***

song” is inconsistent with Articles 2, 20, 26, 28, 40, 44, and 99 of the 1995 Constitution.

(iv) Whether the petitioner is entitled to the remedies sought.”

Counsel for the 1st respondent, in his submissions, replied to the
5 issues raised by counsel for the petitioner.

On his part, counsel for the 2nd respondent proposed the following
issues:

- “1. Whether the Petition raises questions for constitutional interpretation**
- 10 **2. Whether the Petition is incompetent and ought to be dismissed and/or struck out.**
- 3. Whether the Petitioner is entitled to the declarations and orders sought.”**

For purposes of harmonizing all the issues, I will frame the following
15 issues to guide in the determination of this Petition:

- “1. Whether the Petition raises any questions for constitutional interpretation.**
- 20 **2. If the Petition raises a question for constitutional interpretation, whether this Court is barred from entertaining it.**
- 3. Whether the 1st respondent’s act of asserting the defence of presidential immunity to legal proceedings as a defence to the petitioner’s suit against him was inconsistent with Articles 2, 20, 26, 28, 44, and 98 (4) and 5 of the 1995 Constitution.**
- 25 **4. Whether the Petitioner is entitled to the declaration and orders sought.”**

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I will proceed to consider the issues hereunder. However, before delving into the issues, I wish to set out the principles that guide this Court while carrying out constitutional interpretation. These principles were summarized by Mwendha, JSC in her decision in **Tusingwire vs. Attorney General, Constitutional Appeal No. 4 of 2016**, and include the following:

“(i) *The constitution is the Supreme law of the land and forms the standard upon which all other laws are judged. Any law that is inconsistent with or in contravention of the Constitution is null and void to the extent of its inconsistency. (see Article 2 (2) of the Constitution. Also see Presidential Election Petition No. 2 of the 2006 (SC) Rtd Dr. Col. Kiiza Besigye v. Y. K. Museveni.*

(ii) ...

(iii) *The entire Constitution has to be read together as an integral whole with no particular provision destroying the other but each sustaining the other. This is the rule of harmony, the rule of completeness and exhaustiveness (see P. K. Ssemwogere and Another v. Attorney General Constitution Appeal No I of 2002 (SC) and the Attorney General of Tanzania v. Rev Christopher Mtikila (2010) EA 13*

(iv) *A Constitutional provision containing a fundamental human right is a permanent provision intended to cater for all times to come and therefore should be given dynamic, progressive liberal and flexible interpretation keeping in view the ideals of the people , their social economic and political cultural values so as to extend the benefit of the same to the maximum possible. See Okello Okello John Livingstone and 6 others v.*

The Attorney General and Another Constitutional Petition No I of 2005, South Dokata v. South Carolina 192, USA 268. 1940.

5 (v) *Where words or phrases are clear and unambiguous, they must be given their primary, plain, ordinary or natural meaning. The language used must be construed in its natural and ordinary sense.*

10 (vi) *Where the language of the Constitution or a statute sought to be interpreted is imprecise or ambiguous a liberal, general or purposeful interpretation should be given to it. (See Attorney General v Major David Tinyefuza Constitutional Appeal No. I of 1997 (SC))*

15 (vii) *The history of the country and the legislative history of the Constitution is also relevant and useful guide to Constitutional Interpretation see (Okello John Livingstone and 6 others v. Attorney General and Another Supra.*

(viii) *The National objectives and Directive principles of state policy are also a guide in the interpretation of the Constitution. Article 8A of the Constitution is instructive for applicability of the objectives.”*

20 I shall now proceed to deal with each issue in turn.

Issue 1: Whether the Petition raises any questions for constitutional interpretation.

Petitioner’s submissions

25 Counsel for the petitioner submitted that the jurisdiction of the Constitutional Court is provided for under **Article 137 (1), (2) and (3)** of the **1995 Constitution**. He further submitted that the jurisdiction can be properly invoked where a Petition, on the face of it, shows that interpretation of the Constitution is required. Counsel

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for the petitioner submitted that the Petition alleges that the respondent's act of raising the defence of presidential immunity to the petitioner's suit against him violates and contravenes **Articles 2, 20, 26, 28, 40, 44 and 99 of the 1995 Constitution**. In counsel's view, the determination of that allegation requires the interpretation of the Constitution and thus the Petition is properly before this Court.

1st Respondent's submissions

Counsel for the 1st respondent submitted that the Petition does not raise any question for constitutional interpretation, as it does not set out any issue that requires, for its determination, the interpretation of a provision of the 1995 Constitution. To counsel, the Petition does not highlight any provision of the 1995 Constitution that requires interpretation. Counsel for the 1st respondent contended that what the Petition alleges is that **Article 98 (4)** is inconsistent with other provisions of the 1995 Constitution. In counsel's view, this Court has no power to question the wisdom of a Constitutional Provision. For this submission, counsel relied on the case of **Brigadier Tumukunde vs. Attorney General and Another, Constitutional Petition No. 06 of 2005**, wherein Kavuma, JCC held that the duty of the Constitutional Court is to interpret the Constitution and not to amend it. He urged this Court to find that the Petition neither raises any question for constitutional interpretation nor discloses a cause of action and dismisses it.

Counsel further submitted that in any case, the Supreme Court held in the case of **Sekikubo and 4 Others vs. Attorney General, Constitutional Appeal No. 1 of 2015** that **Article 98 (4)** of the 1995

Constitution gives the President total immunity against all legal proceedings. In counsel's view, the interpretation of the provision rendered in that case means that there is no further question for interpretation to be considered in this Petition.

5 **2nd respondent's submissions**

Counsel for the 2nd respondent also submitted that this Court has no jurisdiction to determine the Petition. He contended that this Court has jurisdiction over Petitions that set out allegations that require, for their resolution, the interpretation of a provision of the 1995
10 Constitution. Counsel cited several cases in support of his submission, namely: **Attorney General vs. Tinyefuza, Constitutional Appeal No. 1 of 1997, Serugo vs. Kampala City Council and Another, Constitutional Appeal No. 2 of 1998 and Mbabaali vs. Ssekandi, Constitutional Petition No. 0028 of 2012.**

15 In counsel's view, the Petition alleges infringement of the petitioner's right to property and fair hearing contrary to **Article 20, 26 and 40** of the **1995 Constitution**. Such allegations do not fall within the scope of this Court's jurisdiction but should be presented for enforcement of rights in the High Court.

20 Furthermore, counsel submitted that respondent's defence in the relevant suit does not amount to an "act" or "omission" as understood under **Article 137 (3) (b)** of the **1995 Constitution**.

Counsel further submitted that in any case, there is no controversy as the relevant suit has since been disposed of.

25 Counsel urged this Court to resolve issue one in the negative.

Resolution of Issue 1

The dispute in issue 1 is whether the Petition discloses any question(s) for constitutional interpretation, necessary to invoke the jurisdiction of this Court. The jurisdiction of this Court is set out under Article 137 of the 1995 Constitution, which in relevant part, provides as follows:

“The constitutional court.

137. Questions as to the interpretation of the Constitution.

10 *(1) Any question as to the interpretation of this Constitution shall be determined by the Court of Appeal sitting as the constitutional court.*

(2) When sitting as a constitutional court, the Court of Appeal shall consist of a bench of five members of that court.

(3) A person who alleges that—

15 *(a) an Act of Parliament or any other law or anything in or done under the authority of any law; or*

(b) any act or omission by any person or authority, is inconsistent with or in contravention of a provision of this Constitution, may petition the constitutional court for a declaration to that effect, and for redress where appropriate.

20 *(4) Where upon determination of the petition under clause (3) of this article the constitutional court considers that there is need for redress in addition to the declaration sought, the constitutional court may—*

(a) grant an order of redress; or

25 *(b) refer the matter to the High Court to investigate and determine the appropriate redress.”*

The import of the above provision, as expounded in many cases is that this Court has jurisdiction to determine Petitions that raise

questions for constitutional interpretation, that is questions whose determination requires the interpretation of a constitutional provision(s). In the case of **Edward Mbabali vs. Edward Kiwanuka Sekandi, Constitutional Petition No. 028 of 2012, Kasule, JA/CC**

5 held that:

10 *“It follows therefore that the jurisdiction conferred upon the Constitutional court by Article 137 is to ascertain whether or not the subject of the constitutional litigation, be it an Act of Parliament, or other law or act or omission done under the authority of any law, or by any person or authority, is or is not in violation of the constitution. This is in contrast with the other jurisdictions that are not of a constitutional nature, whereby the courts of law, vested with such jurisdictions, determine whether the claims before them are in contravention of some other laws, customs, practices and other value norms of society, other than the Constitution.*

15 *Thus the Constitutional Court adjudicates matters requiring interpretation of the Constitution, and not necessarily, enforcement of the Constitution, except where upon determination of the issue of interpretation of the Constitution, the said court considers, on its own, that there is need to grant additional redress. In such a case, the Constitutional Court may grant other redress in addition to having interpreted the constitution or it may refer the matter to the High Court to investigate and determine the appropriate redress: See: Article 137(4) (a) and (b) of the Constitution.*

20 *A constitutional question that has to be interpreted by the Constitutional Court arises when there is an issue, legal or otherwise, requiring an interpretation of the Constitution for the resolution of the cause out of which that issue arises from.*

25 *This issue may be raised either through lodgment of a constitutional petition in the Constitutional Court by a Petitioner; or through a reference to the Constitutional Court by the court that is determining the cause from which such an issue requiring constitutional interpretation arises or where a party*

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to the proceedings of that cause requests that the court refers the issue to the Constitutional Court for interpretation.

Interpretation of the constitution is the ascertaining of the meaning of specific constitutional provisions and how they should be applied in a particular context.”

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It is therefore necessary to determine whether the Petition sets out any question for interpretation. Counsel for the petitioner stated in his submissions that the Petition requires a decision on whether the 1st respondent's act of asserting presidential immunity as a defence to the petitioner's suit against him is unconstitutional. The petitioner contends that the resolution of that question requires the interpretation of Article 98 (4) and other provisions of the 1995 Constitution to determine the extent of the immunity from legal proceedings granted to the President. In my view, this question concerns an allegation that an act done by someone, namely the 1st respondent's act of asserting the defence of presidential immunity, is inconsistent with and/or in contravention of Article 98 (4) of the 1995 Constitution, within the terms of Article 137 (3) (b) of the 1995 Constitution.

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However, as was rightly observed by counsel for the 1st respondent, the broad question on whether a sitting president can be subjected to legal proceedings, which encompasses the question in this Petition, has been considered in many cases by the Supreme Court and this Court.

25 In **Hon. Theodore Ssekikubo and 4 Others vs. Attorney General, Constitutional Appeal No. 1 of 2015**, the Supreme Court held that:

“We think that Article 98(4) is clear and unequivocal; therefore, we shall apply the literal rule of constitutional interpretation. From this interpretation and from the authorities cited by Counsel for the appellant including the Constitutional Law Cases and Essays, 2nd Edition by Sheldon Goldman pp 252-3, and **Nixon v Fitzgerald, 457 US 731 (1982)**, it is clear and we agree with counsel for the appellant that the President cannot be subjected to any court proceedings during his term in office. As Mukasa-Kikonyogo and Kitumba JJA, (as they then were), aptly held in **Brigadier Henry Tumukunde v. Attorney General & Anor, Constitutional Petition No. 6 OF 2005** (CC) at page 13 of their joint judgment: —

“The acts of the President in appropriate cases can be challenged in Courts of law; however, while holding office, the President shall not be liable to court proceedings in any court.

According to the above authorities and others cited by counsel, the rationale for the grant to the President of the privilege and immunity from court proceedings while holding office, is to ensure that the exercise of presidential duties and functions are free from hindrance or distraction, considering that the Chief Executive of the government is a job that, aside from requiring all the office holder’s time, also demands undivided attention.

*“Because of the singular importance of the President’s duties, diversion of his energies by concern with private law suits would raise unique risks to the effective functioning of government.” (See: **Nixon v Fitzgerald, per Powell J (supra).**)*

The principles laid out in the above case were reiterated with approval by the Supreme Court in the case of **Ivan Samuel Ssebbaduka vs. The Chairman Electoral Commission and 3 Others, Supreme Court Presidential Election Petition No. 1 of 2020**. In that case, the Supreme Court emphasized that a sitting President is immune from legal proceedings, except proceedings in a Petition challenging

the results of a Presidential election. The above cases are binding on this Court.

It is my considered view that since the question on the nature of presidential immunity under Article 98 (4), which is the same question arising in this Petition, has been considered in the above-cited cases, this Court needs not consider the same question in the present case.

Furthermore, I noted that the Petition also sets out allegations that the petitioner's rights to a fair hearing and property were infringed due to the petitioner's inability to have his case against the respondent tried. In my view, those allegations relate to enforcement of rights and do not have to be considered as this Court does not have jurisdiction to try matters for enforcement of rights. In **Ismail Serugo vs. Kampala City Council and Another, Constitutional Appeal No. 2 of 1998, Wambuzi C.J** held that:

"In my view, for the Constitutional Court to have jurisdiction, the Petition must show, on the face of it that interpretation of a provision of the Constitution is required. It is not enough to allege merely that a Constitutional provision is violated.

If therefore any rights any rights have been violated as claimed, these are enforceable under Article 50 of the Constitution."

Therefore, the allegations in the Petition that certain rights of the petitioner were violated by acts of the respondent need not be considered.

All in all, I consider that the Petition raises no question for constitutional interpretation. I would answer issue 1 in the negative.

Having answered issue 1 in the negative, it becomes unnecessary to consider issues 2, 3 and 4. Accordingly, I would dismiss this Petition since it raises no question for constitutional interpretation. I would make no order as to costs as it is the practice of this Court not to award costs in constitutional Petitions.

Dated at Kampala this 16th day of January 2022.


Christopher Gashirabake

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Justice of the Constitutional Court

THE REPUBLIC OF UGANDA
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA
(Coram: Egonda-Ntende, Musoke, Madrama, Mugenyi & Gashirabake, JJCC)

Constitutional Petition No. 010 of 2019

BETWEEN

Kawesa Richard=====Petitioner

AND

Yoweri Kaguta Museveni=====Respondent No.1

Attorney General=====Respondent No.2

Judgment of Fredrick Egonda-Ntende, JCC

- [1] I have had the opportunity to read in draft the judgment of my brother, Gashirabake, JCC. I agree with it and have nothing useful to add.
- [2] As Musoke, Madrama and Mugenyi, JJCC, also agree this petition is dismissed with no order as to costs.

Dated, signed and delivered at Kampala this 16 day of January 2023


Fredrick Egonda-Ntende
Justice of the Constitutional Court

**THE REPUBLIC OF UGANDA
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA
CONSTITUTIONAL PETITION NO. 010 OF 2019**

KAWESA RICHARD:.....PETITIONER

VERSUS

1. YOWERI KAGUTA MUSEVENI

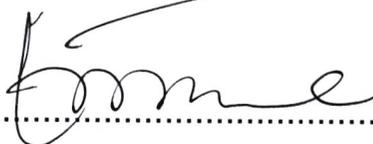
2. ATTORNEY GENERAL:.....RESPONDENTS

**CORAM: HON. MR. JUSTICE FREDRICK EGONDA-NTENDE, JCC
HON. LADY JUSTICE ELIZABETH MUSOKE, JCC
HON. MR. JUSTICE CHRISTOPHER MADRAMA, JCC
HON. LADY JUSTICE MONICA K. MUGENYI, JCC
HON. MR. JUSTICE CHRISTOPHER GASHIRABAKE, JCC**

JUDGMENT OF ELIZABETH MUSOKE, JCC

I have had the advantage of reading in draft, the judgment of my learned brother Gashirabake, JCC, and I agree with the reasoning and conclusions contained therein. I, too, would dismiss the Petition with no order as to costs.

Dated at Kampala this ^{16th}.....day of ^{February}..... 2023.



Elizabeth Musoke

Justice of the Constitutional Court

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THE REPUBLIC OF UGANDA,

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

(CORAM; EGONDA NTENDE, MUSOKE, MADRAMA, MUGENYI,
GASHIRABAKE, JJCC)

CONSTITUTIONAL PETITION NO. 010 OF 2019

10 KAWESA RICHARD} PETITIONER

VERSUS

- 1. YOWERI KAGUTA MUSEVENI}
- 2. ATTORNEY GENERAL} RESPONDENTS

JUDGMENT OF JUSTICE CHRISTOPHER MADRAMA IZAMA, JCC

15 I have read in draft the Judgment of my learned brother Hon. Mr. Justice Christopher Gashirabake, JCC.

I agree that the petition ought to fail for disclosing no controversy as to interpretation of the Constitution. To put it in my own words, the issue raised does not fall under article 137 (1) of the Constitution because the question as to interpretation was previously raised and its interpretation determined by courts seized with jurisdiction. The jurisdiction of the Constitutional Court is derived from Article 137 (1) of the Constitution which provides that:

"Any question as to the interpretation of this Constitution shall be determined by the Court of Appeal sitting as the constitutional court."

25 While prima facie, the petition appears to raises a question as to the interpretation of the Constitution; that question has already been determined by the constitutional court and there is no further controversy as to the meaning, scope and application of Article 98 (4) of the Constitution, the subject matter of the interpretation sought in this petition.

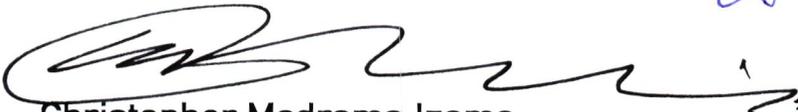
30 Article 98 (4) of the Constitution was conclusively interpreted by the Constitutional Court and the Supreme Court respectively and my learned

5 brother has referred to the relevant judgments which I need not repeat here.

The material question of whether the President is not liable to any proceedings in a court while holding office having been determined variously by the constitutional court and the Supreme Court. The Supreme
10 Court is the highest appellate court and remains is the enforcement of article 98 (4) of the Constitution as the High Court has done. Further, the fact that the President is not liable to any legal proceedings in any court does not per se shut out the petitioner from attempting any other lawful
15 engagement on his claims with the President or his representative in an attempt to have his claim addressed amicably. In the absence of any other constitutional means to have his claims considered, the petitioner has to wait until the President leaves office if he desires to commence any action in any court with regard to his claims.

In the final result, I concur with the reasons advanced in the judgment of
20 my learned brother Hon. Mr. Justice Christopher Gashirabake, JCC together with the orders proposed that the petition be dismissed with no order as to costs.

Dated at Kampala the 18th day of January 2023


25 **Christopher Madrama Izama**

Justice Constitutional Court



THE REPUBLIC OF UGANDA

**THE CONSTITUTIONAL COURT OF UGANDA
AT KAMPALA**

(Coram: Egonda-Ntende, Musoke, Madrama, Mugenyi & Gashirabake, JJCC)

CONSTITUTIONAL PETITION NO. 10 OF 2019

RICHARD KAWEESA PETITIONER

VERSUS

**1. YOWERI KAGUTA MUSEVENI
2. THE ATTORNEY GENERAL RESPONDENTS**

JUDGMENT OF MONICA K. MUGENYI, JCC

1. I have had the benefit of reading in draft the judgment of my brother, Justice Christopher Gashirabake, JCC in respect of this Petition
2. I agree with his conclusions and the orders issued, and have nothing useful to add.

Dated and delivered at Kampala this ^{16th}..... day of January....., 2023.

Monica K. Mugenyi

Monica K. Mugenyi

Justice of the Constitutional Court