

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
COMMERCIAL COURT DIVISION

HCT-00-CCC-MC-001 -2008

COTTFIELD EAST AFRICA (U) LTD. APPLICANT

VERSUS

COTTON DEVELOPMENT ORGANISATION RESPONDENT

BEFORE: HON MR. JUSTICE LAMECK N. MUKASA

RULING:

This is an ex parte application brought under section 36 of the Judicature Act and Order 46 A rule 4 of the Civil Procedure Rules as amended by the Civil Procedure Rules (Amendment) (Judicial Review Rules) S.I. 75/2003 for leave to apply for Judicial Review of the decision of the Respondent, Cotton Development Organisation, dated 15th February, 2008 cancelling the Applicant's Ginning Certificate No. 011 and Lint Export Certificate No. 0045 for the 2007/2008 season.

At this preliminary stage the Court's duty is to determine whether the applicant has established a prima facie case to sustain the grounds upon which he relies to seek the judicial review. Leave will be granted when the applicant has shown that there is a point which merits an investigation on a full hearing.

I have carefully studied the Applicant's grounds for the application as outlined in the application and set out in detail in the statement filed together with the application. The grounds are verified in an affidavit in support of the application sworn by the Director of the Applicant, Pavel Kuzmenko.

The Applicant contends that:

1. Its Certificates were cancelled without any hearing
2. The application was not informed in what manner it was disorganising the Uganda Cotton Sector, the reason given by the Respondent in the letter of cancellation.

The rules of natural injustice require that a party should be informed of the nature of accusation or the case against him and that he should be given a hearing. The applicant contends that it was denied the above.

In the premises I find that the Applicant has raised a serious complaint which requires investigation inter parties for a remedy. This is therefore a proper case where leave should be granted and it is accordingly granted.

The Applicant also seeks for a stay of the order cancelling the said licences pending the disposal of the intended application. In its affidavit in support it is averred that the Applicant operates a modern Cotton Ginnery in Bulangira in Pallisa valued at more than US\$3,200,000/=. That its agents in various parts of Uganda have large quantities of cotton in their stores ready for the Applicant to purchase. That when the purchase is unreasonably delayed the quality will deteriorate to the detriment of the Applicant and it is likely to lose shs1.5 billion which has

already been invested in Cotton. Further that bales worth US\$1,130,000 are lying in the Applicant's and its agents' stores. The Applicant is suffering irreparable loss as cotton is a perishable with fluctuating world market prices.

Considering all the above I find that it is just and proper that the Respondent's order cancelling the Applicant's Ginning Certificate and Lint Export Certificate be stayed pending the final disposal of the Applicant's application for Judicial Review and I so order.

Costs in the main application shall bind the costs of this application.

Hon. Mr. Justice Lameck N. Mukasa

JUDGE

27th February 2007