

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA

COMMERCIAL COURT DIVISION

HCT-00-CC-MA-0587-2007

(Arising from HCT-00-CC-CS-0774-2007)

Balikowa Nixon Applicant

Versus

Post Bank Ltd Respondent

BEFORE: THE HONOURABLE MR. JUSTICE FMS EGONDA-NTENDE

RULING

1. The applicant is seeking leave to amend his plaint and add Bank of Uganda as a party to this suit and that costs of this application be provided for. The main ground of this application is that the respondent in its written statement of defence claims that it is acting in accordance with an order from Bank of Uganda which is the regulator of the financial institutions. It is the contention of the applicant that the Bank of Uganda should be held accountable for its actions.

2. This application was opposed by the respondent on the ground that the current defendant enjoys immunity from liability in accordance with Section 118(2) of the Financial Institutions Act. Mr. Kiyemba Mutale for the applicant argued that this objection should form part of the issues at trial, and not be raised at this stage.

3. I have read the plaint and it appears to me that it is the contention of the plaintiff in the plaint that any freezing order that the Bank of Uganda purported to issue had been quashed by the High Court of Uganda, and thus afforded no protection to the defendant. This is a matter that will be considered at some point in the trial of this case. It may be that evidence may have to be taken before the issue can be concluded. It does not have to be necessarily considered at this stage when we are dealing with whether or not to add a party to this action. For that reason I decline to deal with the objection to this application raised by Mr. Adriko, learned counsel for the respondent.

4. As the respondent did not oppose this application upon any other ground, other than the claim for immunity from liability for the respondent, and it does appear to me, that in order to fully hear and determine all matters in issue between the parties, it is just to allow the applicant add Bank of Uganda as a defendant in this matter.

5. I accordingly allow this application with costs in the cause. The plaintiff shall file an amended plaint with 10 days from today.

Signed, dated and delivered this 18th day of October 2007

FMS Egonda-Ntende
Judge

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