

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

**HCT-00CC-MA-0697-2011**

**(ARISING FROM CIVIL APPLICATION NO. 0005 OF 2007)**

**SECURITY GROUP UGANDA LIMITED ..... APPELLANTS**

**VERSUS**

- 1. EDITH BYANYIMA**
- 2. TNT EXPRESS WORLDWIDE (U) LTD ..... RESPONDENTS**

**Before: Justice W. M. Musene**

**RULING:**

This was an application by Chamber Summons under Section 62 (I) of the Advocates Act and rule 3 of the Advocates (Taxation of Costs) Appeal and Reference Regulations.

It is for orders that the 1<sup>st</sup> Respondents bill of costs which was taxed exparte and allowed at shs8,387,500/= by the Deputy Registrar was excessive and contravened the provisions of the 6<sup>th</sup> Schedule of the Advocates' remuneration and (Taxation of costs) Regulations.

The appellant was represented by Mr. Richard Mugenyi, while Mr. Gilbert Nuwagaba represented the Respondents, Edith Byanyima and TNT Express World Wide (U) Ltd.

However, before the appeal could be heard, Mr Nuwagaba submitted that under regulation 3 of the Advocates (Taxation of Costs) Appeals and references regulations, the grounds of appeal are to be stated. Secondly, that the decision of the Registrar appealed against should be attached. He added that in the absence of the decision of the lower court, the appeal cannot proceed and should in effect be dismissed.

Mr. Mugenyi Richard in reply submitted that he appeal is not a fishing expedition and that it is provided for under S. 62 of the Advocates Act.

I have carefully considered the law and procedure in appeals of this nature. In my view the order of the Registrar appealed against should have been attached and the Taxation Certificate. In the case of **Board of Governors and Headmaster Gulu S. S. Vs Plumson E. Odong Civil Appeal No. MG 2 of 1990, Justice G. M. Okello** as he then was held that

**“it is a requirements of the law that these documents (decree or order and memorandum of Appeal) must be filed together when an appeal is lodged. A decree or order from which an appeal is preferred must extracted and filed together with the memo. of appeal. Failure to do so renders the Appeal in incompetent.”**

And more recently, my brother Justice Mugamba in **Civil Appeal No 2 of 1995, Vincent Kafureka Vs Yowena Katorobo**, held that failure to extract a formal decree or order before filing the appeal is a defect going to the jurisdiction of the court and could not be waived.

I agree with the position of the law as stated in the two cases quoted above. In the premises, I uphold the objection raised by Mr. Nuwagaba that since the decision and order of the Registrar sought to be appealed from are not all attached, the reference cannot stand. The appeal against the decision of the Taxing Officer is in the circumstances incompetent and is accordingly dismissed with costs.

Judge

11.4. 2013

Mr. Richard Mugenyi for Appellant present

Mr. Gilbert Nuwagaba for Respondent present

Mr Ojambo Court Clerk present

Court: Ruling read out in open court.

Hon. Mr. W.M. Musene

HIGH COURT JUDGE

11.4. 2013