



[2] The facts that led to this application are as follows. On 19<sup>th</sup> June, 2011 the applicants secured a loan of Ug Shs. 4,000,000/= (four millions) from the Respondent. The applicants made some payments to clear the loan, but failed to adhere to the agreed terms and as at 7<sup>th</sup> October, 2013 the outstanding loan amount was Ug Shs. 5,223,277/=.

[3] This dispute was referred to Sheema District Local Government, specifically to the office of the District Commercial Officer for arbitration. This arbitration was conducted vide Reference No. SDLD/DCO/A0013/10/2013 and an award was made in favour of the Respondent on 8<sup>th</sup> October, 2013.

[4] On the 18<sup>th</sup> October, 2103 the arbitrator wrote to the Chief Magistrate Court of Bushenyi, seeking the courts assistance in the execution of the award. The court complied and issued a warrant of arrest in execution against the 1<sup>st</sup> Applicant who was subsequently committed to civil prison. Dissatisfied with the trend in this matter, counsel for the applicants filed this application seeking revisional orders.

[5] Upon perusal of the affidavit of the 1<sup>st</sup> Applicant in support of this application and that of Mpangane Vererian in reply, this court finds the issues for defermination in this revision as follows:-

1. Whether the Magistrate Grade One had jurisdiction to enforce an arbitral award.

2. Whether the 1<sup>st</sup> Applicant was lawfully committed to civil prison.

[6] In deciding the issue as to whether the Magistrate Grade One had jurisdiction to enforce an arbitration award, this court will refer to the provisions of the Arbitration Conciliation Act Cap 4 and specifically section 36 which provides as follows:-

**“Where the time for making an application to set aside the arbitral award under section 34 has expired, or that application having been made, it has been refused, the award shall be enforced in the same manner as it were a decree of the court.”**

[7] The above provisions of the law are very clear and unambiguous. The next question to resolve is as to which court can enforce Arbitral awards. This is catered for in section 2 (1) (f) of the Arbitration and Conciliation Act which provides as follows:-

**“Court”** means the High Court.

[8] From the above provisions of the law, it is only the High Court which has jurisdiction to enforce an arbitration award.

The facts in this case are similar to those of Tanzanian Cotton Marketing Board Vs Cogecot Cotton Co SA

reported in (1995-1998) IEA 312 where the court of Appeal of Tanzania was considering provisions of law similar to our section 36 and their Lordship in deciding a similar issue held that:-

“The filing of an award in court in terms of section 16 (1) of the arbitration ordinance renders such an award capable of being enforced as if it were a decree of the court.”

In this case the court referred to was the High Court of Tanzania and the position is the same in Uganda.

[9] This court therefore, finds that the Magistrate Grade I Bushenyi had no jurisdiction to enforce the Arbitral award. All proceedings before the Magistrate Grade I purporting to enforce the arbitration award are hereby set aside.

[10] This takes us to the second issue as to whether the 1<sup>st</sup> Applicant was lawfully committed to civil prison. With the findings of this court that the Grade I Magistrate had no jurisdiction to enforce an arbitral award, it therefore follows that even the orders to commit the 1<sup>st</sup> Applicant to civil prison were made unlawfully.

[11] This court notes that the 1<sup>st</sup> Applicant was temporarily released by the Assistant Registrar on 16<sup>th</sup> January, 2014 and will accordingly not make any further release orders.

[12] In the final result this court makes the following revisional orders:-

1. The proceedings before the Magistrate Grade I in Bushenyi civil miscellaneous Application No. 24 of 2013 are hereby set aside.

2. The Respondent shall bear the costs of this application.

Dated this...12.....day of ...June.....2014

David Matovu  
JUDGE