

**THE REPUBLIC OF UGANDA,
IN THE HIGH COURT OF UGANDA AT KAMPALA
(COMMERCIAL DIVISION)
CIVIL SUIT NO 590 OF 2014**

JAMAL KENDO}.....PLAINTIFF

VERSUS

- 1. UMAR RIZWAN}
2. MOHAMED N. VAHEED}.....DEFENDANTS**

BEFORE HON. MR. JUSTICE CHRISTOPHER MADRAMA IZAMA

JUDGMENT

The Plaintiff commenced this action against the Defendants for recovery of the value of motor vehicle (truck) No. UAA 354A valued at Uganda shillings 67,000,000/=, special damages of Uganda shillings 496,285,797/=, general damages and costs of the suit. The Plaintiff was the owner of motor vehicle Nissan Box Body No. UAA 354A having purchased the same from Mr. Wesana Muhamed of Mbale Municipal Council in Mbale district. Around 11th December, 2012 the Plaintiff hired out the suit vehicle to the 1st Defendant. It was orally agreed between the Plaintiff and the 1st Defendant that he will use the suit vehicle to transport assorted goods to South Sudan; at a cost of Uganda shillings 857,142.8/= per day inclusive of fuel expenses for a duration of 14 days totalling to Uganda shillings 12,000,000/= which was paid to the Plaintiff. After the 1st Defendant failed or neglected and refused to return the suit vehicle, the 2nd Defendant guaranteed to the Plaintiff the return of the suit vehicle. Since then, the Defendants have never returned the Plaintiff's suit vehicle despite various attempts to do so hence this suit.

The case proceeded ex parte after interlocutory judgment was entered against the Defendants on the 28th April, 2016 and the case was fixed for formal proof. The following issues were set out for resolution;

- 1. Whether the Defendants are liable for compensation of the Plaintiff's motor vehicle.**
- 2. Whether the Defendants are liable to pay as special damages for the continued use of the Plaintiff's vehicle after the expiry of the contract at the rate of 857,142 per month from the date when the vehicle was supposed to be returned till judgment is entered?**
- 3. What remedies available to the parties?**

Issue 1: Whether the Defendants are liable for compensation for the Plaintiff's motor vehicle?

The Plaintiff's Counsel addressed the court on the evidence. PW1 testified that he was the owner of Motor vehicle Nissan Box Body UAA 354A having purchased the same from Mr. Wesana Muhamed of Mbale Municipal Council in Mbale district according to **Exhibits P1 and P2**. While PW1, the Plaintiff was in hospital on or about the 10th December, 2012, a gentleman called Muzafaru called him and informed him that there were certain customers who wanted to hire out his suit vehicle he had parked in Kisenyi, Kampala. The Plaintiff informed the said Muzafaru that he was sick and had been admitted in hospital in Iganga and that therefore was not in a position to transport people's goods to Southern Sudan. The following day at around 6:00am, the said Muzafaru called the Plaintiff and informed him that the suit vehicle had been moved from the Kisenyi Parking where he had left it and it had been taken somewhere in Kawempe. On the 11th December, 2012 at around 7:00 am, the Plaintiff and his colleague Musa Mutwalume went to Kisenyi Kampala where the suit vehicle had been parked and to Waswa Kanyike, the custodian of the suit vehicle where he had parked it. The vehicle was not there but Waswa Kanyike informed the Plaintiff that he had given the car keys to two gentlemen of Indian origin. They had taken the suit vehicle to Kawempe where it is going to load goods from, before it sets off for South Sudan. The Plaintiff went to Kawempe and found the suit vehicle had been parked behind Benzin Petrol station in Kawempe and unknown men were offloading merchandise (Sadolin Paint and Biscuits) from a Truck which was damaged and were packing the goods onto the suit vehicle. The Plaintiff was identified to the owner of the goods (the Defendants) and the engaged the Plaintiff in negotiations.

The 1st Defendant on or about the 11th December, 2012 hired the Plaintiff's vehicle in an oral agreement at a rate of Uganda shillings 857,142.8 per day for a period of fourteen days for a total sum of Uganda shillings 12,000,000/=. After they agreed, the 1st Defendant paid 8,000,000/= as part of the 12,000,000/= and the Plaintiff acknowledged receipt thereof in a receipt dated 11th December, 2012 according to exhibit **P3**. The Plaintiff later on the same day received the balance of 4,000,000/= and handed over the vehicle to the 1st Defendant. PW1 further testified that on the 17th December, 2012 the Plaintiff was informed that his vehicle had been abandoned at Oraba Boarder whereupon he informed the 1st Defendant who took no action. The Plaintiff requested Ayub Musenze, a resident of Arua to go to Olabba Border to follow-up the vehicle. Ayub Musenze went with a one Bogere Ibrahim to Olabba Border post and they found the suit vehicle indeed abandoned at Olabba Border with the goods. The Plaintiff called the 1st Defendant and informed him that his goods had been abandoned at the Olabba border whereupon the 1st Defendant Umar Rizwan requested the Plaintiff to wait for the Christmas season to pass and thereafter he would ensure the vehicle proceeds.

On 2nd January, 2012 the Plaintiff demanded for the return of the suit vehicle from the 1st Defendant who had not returned the same. The 1st Defendant gave the Plaintiff an additional payment of Uganda shillings **2,500,000/= (Two Million Five Hundred Thousand)** for the delay in bringing back the suit vehicle. PW1 went to Southern Sudan and found the suit vehicle in the custody of one Abdu who claimed that he had an agreement with the Defendants to transport goods on his goods which he did not do and as a result he confiscated the suit vehicle.

PW1 on the 7th June, 2013 reported a criminal case at Kampala Central Police Station against the 1st Defendant and the 1st Defendant was arrested. On 10th June, 2016 the 1st Defendant made an undertaking to return the Plaintiff's suit vehicle by the 25th June, 2016. In the said undertaking the 2nd Defendant stood surety for the 1st Defendant for the return of the suit vehicle according to exhibit P 5 but the vehicle has not been returned. PW2 and PW3 corroborated the Plaintiff's evidence. PW2 testified that he was the one who drove the suit vehicle from Olabba border to Wau town. He was the person with one Abdu whom he found at the border who was the owner of the goods transported to Wau town using the suit vehicle. The said Abdu refused to hand over the suit vehicle to him on the ground that the 1st Defendant had not paid him transportation costs earlier on agreed between the 1st Defendant and Abdu that the 1st Defendant would transport goods for the said Abdu. PW3 (Mr. Musa Mutwalume) testified that the Plaintiff handed over the suit vehicle to the 1st Defendant in his presence and that all efforts by the Plaintiff to secure the return of the suit vehicle from the 1st and 2nd Defendant was done in his presence.

The Plaintiffs Counsel submitted that the evidence proves the following:

1. That the Plaintiff hired out to the 1st Defendant the suit vehicle for a period of 14 days from 11th December, 2012.
2. That the 1st Defendant never returned the Plaintiff's vehicle by the 25th December, 2012 when he was supposed to do so.
3. The 2nd Defendant guaranteed to the Plaintiff that the 1st Defendant would return the Plaintiff's vehicle before the 25th June, 2013.

It is clear from the evidence that the suit vehicle was handed over to the 1st Defendant who has not returned and he is liable to return or handover the motor vehicle or pay compensate the Plaintiff for the loss. The Sudanese to whom the vehicle was handed over was not privy to the contract between the Plaintiff and the Defendants and the right of possession reverted back to the Plaintiff after the expiry of the period of hire. In the case of **Mpandi Ivan vs. Prism Trading and Construction Co. Ltd**, a case with similar facts this court held:

"At the end of the contract the Defendant had an obligation to handover the goods/vehicle to the Plaintiff. The Defendant had to show that it was beyond its power to help the Plaintiff recover his vehicle. If there was a third party intervention, it occurred while the property was deemed to be in the possession of the Defendant. The Plaintiff discharged his burden by proving that he handed over the possession of the vehicle to the Defendant under a contract of hire of the vehicle and the Defendant took the vehicle to South Sudan to carry out the duties only known to the Defendant. The remedy in those circumstances and in the absence of the Defendant having knowledge of the whereabouts of the vehicle is to compensate the Plaintiff for the loss of the vehicle. "

Counsel prayed that the Plaintiff be compensated 'at the tune of 67,000,000/= being the value of the suit vehicle.

Issue 2: Whether the Defendant is liable to pay special damages for the continued use of the Plaintiff's vehicle after the expiry of the contract at the rate of Uganda Shillings 857,143/= from the 26th December, 2015 till judgment is entered?

The Plaintiff's Counsel submitted that it is trite law that special damages must be specifically pleaded and proved. The Plaintiff prayed for Uganda Shillings 496,285,7971/= as special damages (and not hire charges); the particulars of which under Paragraph 5 of the plaint are that he, hired the truck at 857,143/- per day and for the 579 days from the date of the truck was to be returned to the 1st August, 2014 when the pleadings were drafted. Counsel submitted that in giving evidence however, the Plaintiff proved loss of earning from the 26th December, 2012 to the 21st September, 2016 when he gave his testimony. The variance in the figures is explained by the requirement of the law to strictly plead and prove the claim of the special damages yet at the same time the figure keeps on changing as time goes. The Plaintiff did so in order to strictly prove how the amount he is entitled to can be reached at by court.

Counsel submitted that the Plaintiff adduced evidence through PW1 that he bought the motor vehicle for business purposes and the Defendant's action have caused him loss of business income. He further submitted that since the expiry of the contract, the Defendant demanded for the return of the suit vehicle and not hire charges. The Plaintiff proved that he hired out the suit vehicle at Uganda Shillings 857,143. 8/= to the Plaintiff which meant that the same is the expected income from the suit vehicle per day. He submitted that the Plaintiff at all times intervened and objected to the Defendant's actions of not returning the suit vehicle to a level of complaining at Central Police Station Kampala. The loss is the loss of income from 26th December, 2012 when the vehicle was supposed to be returned to the date of the judgment which is the direct result of failure by the Defendants to return the Plaintiff's motor vehicle.

In the case of **Mbaka Nguru and another vs. James George Rakwar [1995-1998] 1 EA 246** it was held that loss of earnings is special damages while loss of capacity leads to general damages but must be pleaded and proved. In the case of **Jacob Ayiga Maruja and Anor vs. Simeon Obaya [2002] LLR 46** it was held that the general law with regard to special damages is that claims for lost earnings are in the nature of special damages and must only be specifically pleaded but must be strictly proved. She prayed that court awards special damages in form of loss of earnings to the Plaintiff.

Issue 3: What remedies available to the parties?

The Plaintiff's Counsel submitted that issues 1 and 2 cover some of the remedies sought and in addition submitted on the remedy of **General Damages**. The Plaintiff was a business man whose sole business was hiring out the suit vehicle. He proved to court that he is diabetic and generally sick. And with such poor health conditions he has been put at a great inconvenience and great expense moving to attend court in order to be compensated for his vehicle; yet at the same time he was left with obligations of taking care of his health and his family generally with no source of income. He submitted that the sole reason for this is the actions of the Defendants who refused or neglected to return the suit vehicle. In the premises, the court ought to award general damages to the Plaintiff.

In regard to **Costs of the suit**, Counsel cited the case of **Alexander -Tryphon Debeniotics vs. Central Africa Company Ltd Dares- salaam High court Civil Suit No. 29 of 1996**, where it was held that,

"Full costs should be awarded to a Plaintiff who has succeeded in the main purpose of his suit and obtained the precise form of relief he wanted."

Furthermore, in **Devram Manji Daltani vs. Danda (1949) 16 EACA 35**, it was held that:

"A successful litigant can only be deprived of his costs where his conduct has led to litigation, which might have been averted."

The Plaintiff's Counsel submitted that the Plaintiff has been successful in all his claims against the Defendants and in no way did his conduct lead to litigation of this suit.

With regard to the claim for interest **Section 26 (1) and (2)** of the Civil Procedure Act Cap 71 gives this honourable court discretionary powers to award interest and the court should exercise its discretion to award the Plaintiff interest.

Judgment

I have carefully considered the Plaintiff's suit as disclosed in the plaint. The matter proceeded in default of the defence and ordinarily under Order 8 Rule 3 of the Civil Procedure Rules, every

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allegation of fact in the plaint, if not denied specifically or by necessary implication or stated not to be admitted in the pleadings of the opposite party, shall be taken to be admitted except for a person under disability. The presumption of law is that the Plaintiff's suit has been admitted on the ground that the registrar who entered the interlocutory judgment on 28th April, 2015 was satisfied that the Defendants were served with summons to file a defence and declined to file their written statement of defence. That notwithstanding, where a suit has been brought claiming a liquidated demand, ordinarily the Plaintiff is entitled to judgment for the amount claimed together with interest under Order 9 rules 6 of the Civil Procedure Rules.

Following judicial precedents that the Plaintiff is entitled to judgment on the liquidated demand in default of a written statement of defence, the question faced is primarily whether the court should assess the damages notwithstanding the claim for special damages of Uganda shillings 496,285,797/= as disclosed in paragraph 3 of the plaint being a claim for hire charges. This follows the legal doctrine espoused by the rules that a suit is fixed for assessment of damages where the claim is for pecuniary damages only or for detention of goods with or without a claim for pecuniary damages. By letter dated 21st September, 2015, the Plaintiff's advocates wrote to the Deputy Registrar, High Court of Uganda, (Commercial Division) for judgment to be entered against the Defendants. Provision was made in the letter for the order of the registrar. The deputy registrar on 28th April, 2015 entered judgment using the wording written in the letter and the judgment reads as follows:

"Judgment entered as prayed for this 28th day of April, 2015.

GIVEN under my hand and seal of this Honourable Court this 28th day of April 2015.

Deputy Registrar"

It is very material under what rule interlocutory judgment is entered. In this case the Plaintiff is claiming detention of goods namely a lorry which had been hired by the first Defendant to convey his goods to South Sudan. The lorry has not been returned since December 2012. The wording of Order 9 rule 8 of the Civil Procedure Rules is very clear on this issue and provides as follows:

"Where the plaint is drawn with a claim for pecuniary damages only or for detention of goods with or without a claim for pecuniary damages, and the Defendant fails or all Defendants, if more than one, fail to file a defence on or before the day fixed in the summons, the Plaintiff may, subject to rule 5 of this Order, enter an interlocutory judgment against the Defendant or Defendants and set down the suit for assessment by the court of the value of the goods and damages or the damages only, as the case may be, in respect of the amount found to be due in the course of the assessment."

The head note of rule 8 cited above reads as follows: "Assessment of damages." A plain reading of the rule provides clearly that it is for assessment of damages and not for establishing liability of the Defendants. Liability is based on the interlocutory judgment and what is left is the assessment of damages. On the other hand Order 9 Rule 10 of the Civil Procedure Rules is the general rule for ex parte proceedings in default of a defence and provides as follows:

"10. General rule where no defence is filed.

In all suits not by the rules of this Order otherwise specifically provided for, in case the party does not file a defence on or before the day fixed therein and upon compliance with rule 5 of this Order, the suit may proceed as if the party had filed a defence."

Under this rule there is no provision for entering interlocutory judgment. The suit will merely be set down for hearing and evidence adduced on all aspects of the claim including the issue of whether the Defendant is liable. A similar situation was faced by the High Court in the case of **Sengendo vs. Attorney-General [1972] 1 EA 140** and in the judgment of Phadke J. In that case the Attorney General did not file a written statement of defence and the Plaintiffs set down the suit for hearing without the need for an interlocutory judgment. And this is what the learned judge said at page 142:

"In all other cases, where appearance is entered but the defence is not filed in time, the Plaintiff is obliged under O. 9, r. 10, to set down his suit for hearing with notice to the Defendant. This is precisely what the Plaintiff has done in this suit. He was not asking for judgment by default, not even an interlocutory judgment. He wanted that his suit be heard and had taken steps to arrange a date of hearing with the concurrence of the Defendant's Counsel. I held that the hearing before me was not for entering judgment in default and that r. 6 was not applicable."

The honourable judge captured the purpose of the rule which is to set down the suit for hearing as if a defence had been filed. He however denied the Defendant an opportunity to be heard without an application for extension of time within which to file the written statement of defence of the Attorney General. A Defendant who does not file a defence puts himself outside the jurisdiction of court and cannot be heard.

In this case interlocutory judgment was entered and even though the rule was not cited, interlocutory judgment can only be entered under Order 9 rule 8 of the Civil Procedure Rules. In such cases the matter is for assessment of damages only because liability is established by the interlocutory judgment. The suit claim is deemed to be admitted. The situation is complex and has been interpreted by precedents of this court following earlier judicial precedents on the import of Order 9 rule 8 of the Civil Procedure Rules. These authorities are on the definition of a liquidated demand and the purpose of Order 9 rule 8 of the Civil Procedure Rules. The cases are **Uganda Baati vs. Patrick Kalema High Court, Commercial Division, and Civil Suit**

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Number 126 of 2010 where a liquidated demand was defined; Default proceedings leading to formal proof where the claim is a liquidated demand and was considered by this court in the case of **3WM Uganda Ltd vs. Loadwell Freight Logistics Ltd and 2 Others H.C.C.S. No. 299 of 2016** and in **Namiwanda Freda vs. Messrs CorpCredit Limited H.C.C.S. No. 147 of 2015**. In the above cited cases this court held following the English Court of Appeal decision in **Abbey Panel & Sheet Metal Co Ltd vs. Barson Products (a firm) [1947] 2 All ER 809**, that a Plaintiff is entitled to judgment without assessment of the claim for a liquidated amount where interlocutory judgment is entered since rule 8 deals with assessment of damages only. I further held that where there is a liquidated demand and no defence is filed the suit qualifies for summary judgment under Order 36 rule 3 (2) of the Civil Procedure Rules because there is no defence to the liquidated demand. In **Abbey Panel & Sheet Metal Co Ltd vs. Barson Products (a firm) [1947] 2 All ER 809** it was held by Somervell LJ at page 809:

“...where a Plaintiff is claiming pecuniary damages plus a liquidated demand and does not exercise his right to sign final judgment in respect of the latter, but signs an interlocutory judgment in respect of the whole claim, I do not think the Defendant can claim to have the final judgment which is subsequently given set aside as irregular. Under the rules, the Plaintiffs are entitled to final judgment against the Defendants in respect of the liquidated demand covered ex hypothesi by the final judgment. It may be that the court could itself take the objection when the inquiry takes place and make the Plaintiffs sign a separate final judgment in respect of the liquidated demand, but, if the court includes the liquidated demand in the final judgment, I can see no grounds for allowing the Defendants to challenge the judgment in respect of an amount included in it for which, under the rules, the Plaintiffs were clearly entitled to a final judgment against them.”

Evershed LJ on the same issue held at page 810 that:

“where a Plaintiff has in his writ made a claim against a Defendant for one or more of the following, viz, (a) a debt or liquidated demand, (b) detinue, and (c) pecuniary damages, and such Defendant, though properly served, does not choose to appear to the writ, then the Plaintiff may, without having to take any further steps against that Defendant, obtain judgment against him for his claim—in the case of a liquidated demand, a final judgment; in the other cases, an interlocutory judgment subject to assessment by the court of the monetary amount he is entitled to recover.”

The question of the Plaintiff’s entitlement to damages is statutory. The Plaintiff is either entitled to judgment on the liquidated demand or for assessment of damages with regard to the detinue.

The question that is novel is whether the court can disregard the rules and consider the merits of the suit. The controversy would be as to whether the Plaintiff can claim for hire of the vehicle while at the same time claiming for compensation for loss of the vehicle.

The Plaintiff proved that he is the owner of motor vehicle number UAA 354 A Nissan having bought the same from one Wesana Mohammed of Mbale for Uganda shillings 67,000,000/=. He made a down payment of Uganda shillings 51,000,000/= leaving a balance of Uganda shillings 16,000,000/= which was to be paid within six months on 23rd September, 2012. Thereafter the Plaintiff hired the vehicle to the first Defendant. Subsequently the first Defendant failed to return the vehicle. The hire of the vehicle is evidenced by annexure "C" to the witness statement written in December 2012 where the Plaintiff hired out the vehicle to the first Defendant. He received Uganda shillings 8,000,000/= to transport assorted goods from Kampala to Wau in the South Sudan. Thereafter he received another Uganda shillings 2,500,000/= which was to be paid back to the first Defendant when the truck returns and reloads with goods from Kampala. However the truck never returned since December 2012. In June 2013 the parties executed another agreement in which the first Defendant agreed to return the motor vehicle to the Plaintiff. He acknowledges that he took the truck by way of hire on 11th December, 2012 and the truck was still in his possession and will be brought back by 26th June, 2013. He admitted that the truck was currently in South Sudan in Wau. He undertook to bring it back in running condition. He deposited his passport with the police as security deposit. Subsequently the first Defendant paid some money to the Plaintiff to bring the truck back to Uganda but the vehicle has not yet been paid back. Efforts by the Plaintiff to bring the vehicle back were frustrated.

In this suit the Plaintiff seeks compensation for loss of the vehicle. At the same time, he claims for hire of the vehicle at the rate of Uganda shillings 857,142/= inclusive of fuel expenses.

I have carefully considered this suit and in as much as the Plaintiff was entitled to the liquidated demand, the Plaintiff cannot seek at the same time compensation for loss of the truck. The Plaintiff's evidence is that the truck is still in possession of the first Defendant. The evidence clearly points to the fact that the Plaintiff handed over the truck to the first Defendant and received consideration for the hire of the truck for a period of 12 days. The truck was never returned and efforts by the first Defendant and the Plaintiff did not bear any fruit.

In the circumstances it would be unjust to charge the first Defendant for hire charges for the entire period up to the date of the suit. The parties executed a memorandum of understanding on 10th June, 2013 in which the first Defendant undertook to bring the vehicle back by 25th of June 2013. The Plaintiff was facilitated with expenses to pick his vehicle and was paid Uganda shillings 12,000,000/=. The vehicle was to be retrieved from an address in South Sudan. When he went to South Sudan he found the vehicle parked and he was arrested. The person who arrested him had a claim against the first Defendant and the Plaintiff came back to Uganda.

The Plaintiff prayed for hire charges for about four years. I have carefully considered the submissions of Counsel and I do not agree that the Plaintiff is entitled to hire charges because the vehicle was in the possession of a third party and it was the responsibility of the first Defendant to bring it back. By receiving facilitation to bring back the vehicle, the Plaintiff did not waive his right to receive the vehicle back from the first Defendant. The first Defendant only facilitated the Plaintiff and tried to bring back the vehicle from South Sudan. The Plaintiff failed in the undertaking. The first Defendant undertook to bring the vehicle back but failed to do so. I also noted that the first Defendant had been arrested when he deposited his passport with police and undertook to return the vehicle. In the premises, having filed no defence to the suit he is deemed to have admitted his responsibility and the appropriate remedy of the Plaintiff is compensation for the lorry he has lost and the Plaintiff would be entitled to be paid Uganda shillings 67,000,000/= being the cost of replacement for the lorry. However the compensation sum shall be less Uganda shillings 12,000,000/= paid by the first Defendant to the Plaintiff as facilitation to bring the vehicle back which project failed. This was after the first Defendant had been arrested and made certain undertakings and deposited his passport with the police. The Defendant is accordingly ordered to pay the Plaintiff a sum of Uganda shillings 52,000,000/= being the compensation/replacement value of the lorry.

The Plaintiff will be paid compensation on the principal sum by an award of interest under the principle of restitutio in integrum. Interest can be paid in lieu of general damages according to the judgment of this court in **Adjumani Services Station vs. Frederick Batte Civil Suit 345 of 2014**. The principle of restitution in integrum is the rationale for the award of general damages according to the East African Court of Appeal in **Dharamshi vs. Karsan [1974] 1 EA 41**. In **Johnson and another vs. Agnew [1979] 1 All ER 883** it was held that general damages are compensatory and meant to put the innocent party as far as money can do so in the same position as if the contract had been performed. Finally award of interest also fulfils the doctrine of restitutio in integrum according to the case of **Tate & Lyle Food and Distribution Ltd vs. Greater London Council and another [1981] 3 All ER 716**.

Section 26 of the Civil Procedure Act permits the court to order a reasonable interest from the date of the cause of action till payment in full. The Plaintiff has been kept out of his property through a risky venture undertaken by the first Defendant. It was the duty of the first Defendant to return the vehicle to the Plaintiff. The first Defendant undertook to return the vehicle but did not do so. Issues between the first Defendant and third parties concerning the vehicle are not the concern of the Plaintiff and will not be taken into account. In the premises, the sum awarded as compensation shall carry interest at the rate of 24% per annum from August 2013 to the date of judgment.

Further interest is awarded at the rate of 19% per annum from the date of judgment till payment in full.

Under section 27 of the Civil Procedure Act, costs follow the event unless the court for good reason otherwise orders. The Plaintiff having succeeded in the suit, costs of the suit are awarded to the Plaintiff.

I have further considered the evidence against the second Defendant and found that the second Defendant is not liable to the Plaintiff and there is not written agreement in evidence in which the second Defendant undertook to compensate the Plaintiff for any losses.

In the premises, the suit against the second Defendant stands dismissed with no order as to costs.

Judgment delivered in open court on 5th June, 2017

Christopher Madrama Izama

Judge

Judgment delivered in the presence of:

Berna Mutamba for the Plaintiff

Plaintiff is in court

Charles Okuni: Court Clerk

Julian T. Nabaasa: Research Officer Legal

Christopher Madrama Izama

Judge

5th June 2017