

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT KAMPALA  
(COMMERCIAL DIVISION)**

**CIVIL SUIT NO. 0006 OF 2019**

**KNIGHT FASHIONS LIMITED:::PLAINTIFF**

**VERSUS**

**I & M BANK(U) LIMITED:::DEFENDANT**

**Before Hon.Lady Justice Patricia Kahigi Asimwe**

**Ruling on a Preliminary Objection**

Introduction

1. The Plaintiff filed a suit against the Defendant seeking a declaration that the Plaintiff is not indebted to the Defendant to the tune of UGX 145,651,171. The Plaintiff also sought recovery of UGX 65,280,000.
2. The Plaintiff brought an application for amendment of pleadings to include a claim and prayer for recovery of monies debited by the Defendant from the Plaintiff's account and compensation for loss of earnings. The Application was granted on the 19<sup>th</sup> of October 2022.
3. The Plaintiff amended its Plaint to include a prayer for an order directing the Defendant to refund the sum of UGX 145,651,171 allegedly debited from the Plaintiff's account, a prayer for compensation of special damages to the tune of UGX 2,170,242,189 exemplary damages and interest of 28% thereon.



## Representation

4. The matter came up for hearing on 15<sup>th</sup> November 2023. The Plaintiff was represented by Counsel Muhammed Mbabazi and Counsel Bananywa Paul from M/S Maldes Advocates. The Defendant was represented by Counsel Allan Mark Lutaaya and Counsel Eva Nabadda Ssevune from M/S Shonubi Musoke and Co. Advocates.

## Defendant's submissions

5. At the hearing counsel for the defendant raised a preliminary objection that the amended plaint be rejected for non-payment of fees or in the alternative court makes an order for payment of fees. Counsel for the Defendant submitted that sometime in 2021, the Plaintiff filed Miscellaneous Application No. 216 of 2021 seeking leave to amend their plaint. The application was granted on 19<sup>th</sup> October 2022. The Plaintiff amended the Plaint to include prayers for a refund of the sum of UGX 145,651,171 and also sought special damages of UGX 2,170,242,186.
6. Counsel for the Defendant submitted that the total value of the amended plaint is UGX 2,381,172,357. However, on the Electronic Court Case Management Information System) abbreviated as (ECCMIS), it shows that the value of the subject matter is UGX 145,651,171 which was the value of the first Plaint.
7. Counsel for the Defendant submitted that on the ECCMIS, it shows that the matter is still pending payment of court fees for an amended plaint and the fees were accessed at UGX. 6,000 despite the change in the claim of the Plaintiff. Counsel argued that in light of the amendment, the right amount of fees to be paid is approximately UGX. 2.500,000.



8. Counsel for the Defendant referred to the case of **Okidi Richard versus MTN Uganda Limited Civil Suit No. 286 of 2010** where a preliminary objection was raised about underpayment of filing fees on an amended plaint and the fees were assessed based on the special damages claimed.

#### Plaintiff's submissions

9. Counsel for the Plaintiff submitted that under the Judicature Act (Court fees and fines) SI No.13-3 fees for an amended plaint are UGX 6,000. Counsel for Defendant submitted that the law did not envisage that when you are filing an amended plaint you look at the subject matter.

#### Issue

10. Whether fees were paid for the amended plaint and whether they were sufficient

#### Resolution

11. The record on ECCMIS indicates that the Plaintiff paid UGX. 6,000 on the 31<sup>st</sup> of October 2022 for the amended plaint.
12. In the case cited by counsel for the defendant of **Okidi Richard versus MTN Uganda Limited supra**, it was stated that fees have to be paid and are deemed paid when paid in full.
13. In the case of **Miao Hua Xian versus Dfcu Bank Ltd and Another Civil Suit No. 78 of 2016** the court dealt with a similar matter. In that case, the Plaintiff filed an amended plaint to include additional properties resulting in an increase in the value of the subject matter by UGX. 3,800,000,000. Counsel for the 1<sup>st</sup> defendant in that case argued that the plaintiff should have paid additional fees of UGX. 3,900,000. The court held that by virtue of additional properties in the amended plaint,