

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMAPALA
CASE NO 0095 OF 2002

AGASA MAINGI APPLICANT

VERSUS

ATTORNEY GENERAL RESPONDENT

17th May, 2002

BEFORE: HON. MR. JUSTICE J.B.A. KATUTSI:

RULING:

This is an application by way of chamber summons brought under the provisions of rule 6 of the Civil Procedure (Government Proceedings) Rules and O.11 r.6 of the Civil Procedure Rules for orders that:

1. Judgment in default be entered against the respondent/defendant.
2. In the alternative, judgment on admission be entered against the respondent/defendant.
3. Costs of the suit and for this application be given to the applicant/plaintiff.

It is supported by the affidavits of Hashim Kiyimba and John Paul Baingana. In court Learned Counsel for the Applicant enlarged on the affidavits.

Rule 6 of the Civil Procedure (Government Proceedings) Rules enacts as follows:

“Judgment shall not be entered and no order shall be made, against the Government in default of appearance or pleading under any provision of the principal rules without leave

of the court, and application for such leave shall be made by summons served not less than seven days before the return day.”

The chamber summons was filed in court on 21/2/2002. The affidavit of Hashan Kiyimba shows clearly that he took the summons to the chambers of the Attorney General on 21/2/2002 and was told to go back. He returned to the chambers of the Attorney General on 4/3/2002 and a copy of the summons returned to court clearly shows that it was stamped by the chambers of the Learned Attorney General on that same day. It is clear therefore that the application was brought in court in conformity with rule 6 of the Civil Procedure (Government Proceedings) Rules. The Attorney General though served did not appear in court. On this ground alone the application would succeed.

The application in the alternative is utterly misconceived. Order 11 rule 6 legislates as follows:

“11.6. Any party at any stage of suit, where an admission of facts had been made, either on the pleadings or otherwise, apply to the court for such judgment or order as upon such admission he may be entitled to, without waiting for the determination of any other question between the parties; and the court may upon such application make such orders, or give such judgment as the court may think just.”

Surely the admission referred to must be the admission of one of the parties to the suit. The inspector General of Government is not a party to this suit. How then can his alleged admission bind the Attorney General? I find such proposition to be idle and utterly nonsensical. That said judgment in default will be entered as prayed with costs.

17/5/2002

L. Tumwesigye for applicant.

Nabatanzi clerk.

Ruling read.

J.B.A. Katutsi

JUDGE