

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MBARARA

HCT-05-CV-CR-0004-2002
(From Bush. CV-Ma--7/1998)
(Originating from CV-Cs-35/1987)

KAPERERURURANGE ELDADIAPPLICANT

-VS-

RUKARARW BATAKA KWETERANA SOCIETY LTDRESPONDENT

BEFORE: THE HON. JUSTICE P. K, MUGAMBA

RULING

This application for revision follows an order of the Chief Magistrates' Court at Bushenyi and the subsequent execution of that order which resulted into the attachment and sale of eight heads of cattle belonging to the applicant herein. The applicant seeks to have the two orders revised by this court primarily on the argument that the Chief Magistrate's Court exercised its jurisdiction illegally and with material irregularity and injustice. The second ground is that it is fair, reasonable and in the interests of justice that the remedy sought be granted.

I recognize it to be a key grievance of the applicant that the eight heads of cattle were arbitrarily attached from his herd and sold in execution. I recognize also that at the time the same applicant sought to argue objector proceedings he was told execution had already been carried out. That was in December 2001. This application is anchored on Section 84 of the Civil Procedure Act as it stood then. I proceed to quote what is material to this application.

'S. 84. The High Court may call for the record of any case which has been determined by any --- Magistrate's Court and if such court appears to have –

(a)

(b)

(c) acted in exercise of its jurisdiction illegally or with material irregularity or injustice, the High Court may revise the said case and may make such order therein as it thinks fit.

(d) Provided that no such power or revision shall be exercised –

(i) ...

(ii) where, from lapse of time or other cause, the exercise of such power would involve serious hardship to any person’. Emphasis is added.

There is no denying the order and the execution were carried out. Two years after the event if this court were to carry out its powers of revision there is no doubt hardship would result to several persons. After the court Bailiff, if he is still around, is asked to account for the eight heads of cattle the persons to whom they were disposed would be looked for. This task would not only be daunting but also embarrassing, not to mention that it would be next to impossible given that cattle are easily disposable. All the arguments advanced by applicant are moot.

In the circumstances I find I cannot grant the orders sought and dismiss the application with costs.

P. K. Mugamba

Judge

12th February 2004

Mr. Ngaruye for applicant

Mr. Kahungu-Tibayeita for respondent

Parties in court

Ms Tushemereirwe court clerk

Court:

Ruling read in court.

P. K. Mugamba

Judge