

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

**HCT-05-CV-MA-0185-2004**

(From Proceedings of L.C. I Court Kyobukyera Kyeibare Bushenyi)

GODFREY KATUNDA .....APPLICANT

VERSUS

BETTY ATUHAIRE BWESHARIRE..... RESPONDENT

BEFORE: THE HON. MR. JUSTICE P. K. MUGAMBA

**RULING**

This ruling follows objection by Mr. Ngaruye counsel for the respondent to the way the application has been brought. It is his argument that this application cannot be competent given that the affidavit sustaining it contains annextures which are in a language other than English. He contends that the annextures which are documents the applicant seeks to rely on should have been translated into English to make the application wholesome. He relies on Section 88 of the Civil Procedure Act.

On his part Mr. Bwengye counsel for the applicant disagrees. He admits the annextures are in a language other than English but says the practice of court these days is to go for substantive justice rather than technicalities and that in the process evidence is taken in vernacular provided that what is in vernacular is translated into English.

I have looked at the affidavit in issue with its several attachments. Annextures 'A', 'B', 'C1', 'C2', 'D' and 'E' to it are in a language other than English. The first five annextures according to the affidavit refer to agreements while annexture 'E' is copy of the judgment of the LC I Court. There is no translation of these documents which the applicant wishes to rely on in this application. Section 88 of the Civil Procedure Act is unambiguous and states so far as is relevant:

- (1) The language of all courts shall be English.
- (2) Evidence in all courts shall be recorded in English.
- (3) Written applications to the courts shall be in English.

Needless to say the annexures are part of the affidavit of the applicant which in turn is pivotal to the application. That English is the language of court needs no emphasis. So clearly the attachments are of no relevance to court as long as they are in a different lingo. There is no way this court can discern them to arrive at the relief sought after in the absence of any translation. Applicant would have done well to file the documents in issue together with their translation. In the result I find this application incompetent. It is struck out with costs.

P. K. Mugamba

Judge

16/11/2004