

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
CIVIL SUIT NO. 464 OF 2005

JAMES RWANYARARE AND 5 OTHERS ::::::::::::::: PLAINTIFFS

VERSUS

MR. PETER MUKIDI WALUBIRI AND 2 OTHERS ::::: DEFENDANTS

BEFORE: AG. JUDGE REMMY KASULE

RULING

On 23rd November, 2005, in pursuance of efforts to mutually resolve the disputes between them in Civil Suit No. 464 of 2005, the parties to the suit, through their respective Counsel agreed to a Consent order.

The same was recorded by court.

By the said order both parties agreed that:-

- (i) A meeting of the National Council of the UPC elected in 1980 be convened.
- (ii) The meeting was to take place on 26th November 2005 at 11.00 a.m. at Uganda House, the UPC Headquarters.
- (iii) Reports from the Constitutional Steering Commission were to be received by the said National Council.
- (iv) The National Council was to determine the Management of the party.
- (v) Number (iv) above included the holding and conduct of the Annual Delegates conference.

After recording the order the suit was adjourned for mention on 29th November 2005. The purpose of the adjournment was for both parties to report to court as to how the terms of the consent order had been carried out by the parties.

Both parties reported back to court but on different days and with different versions.

Learned counsel Moses Ojakol reported to court alone on 29th November 2005.

His submission to court was that the Consent order had been carried out to the letter and therefore the case should be taken as concluded and the court file marked so.

The court, aware that, on 29th November 2005, access by the public to the High Court premises had been restrictive, stood over the case and awaited a report from the plaintiffs; when the situation at the court premises had returned to normal.

On 30th November 2005 Senior Counsel Godfrey Lule, for the plaintiffs and Rwanyarare, one of the plaintiffs, reported to court. The plaintiffs totally rejected the report made to court by Learned Counsel Mr. Ojakol. They contended no meeting of the National Council ever took place.

The court, on receipt of the conflicting reports from the parties to the consent order, summoned the parties for further action that will conclusively determine the case.

Learned Counsel Mr. Wakida has submitted for the Defendants that the Consent order of 23rd November 2005 was a judgment and therefore this court cannot re-open the case. The court is fuscous official.

Senior Counsel Mr. Godfrey Lule has, in opposition to Mr. Wakida, submitted that the consent order was interlocutory in nature and that it did not amount to a judgment conclusively deciding the issues in the case.

In the considered view of this court, no judgment has ever been reached in this case. The consent order required certain matters to be carried out in accordance with the terms of that order. This court is seized of jurisdiction to determine whether or not those terms of the consent

order were complied with or not. To that extent no final judgment was entered in the case and there is no Decree for execution.

The court therefore rules and orders that the hearing of the suit proceeds on the issue whether or not the terms of the Consent Order of 23rd November, 2005 were complied with.

For this purpose the case, shall proceed on the basis of the pleadings as they were on the 23rd November, 2005, when the Consent Order was made.

The objection of Counsel for the Defendants is hereby overruled with costs.

Remy Kasule

Ag. Judge

14th December 2005