

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

HCT-05-CV-0001-2005

UGANDAPROSECUTOR

VS

AI RUGARWANA CONSTANCE]

A2 HAJATI HADIFA NDUMBA].....ACCUSECD

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

REVISIONAL ORDER

The Chief Magistrate, Mbarara, referred this matter for revision after he called for records of proceedings of the L.C. 1 Court of Kakiika, Kamukuzi Ward, Mbarara and those of the L.C. II Court of Kamukuzi Ward, Mbarara. The reference was made under S.221 (3) of the Magistrates Courts Act and this court is to effect the provisions of S. 32 of the Executive Committees (Judicial Powers) Act, Cap. 8 of the Laws of Uganda. I shall hereafter refer to Cap. 8 as the Act.

Section 17 of the Act relates to records of the courts under the Act. It gives detail of what should be contained in the record. I note that the document which was sent to the Chief Magistrate lacked precise details of the date when the case was heard, the statement of claim and names and addresses of witnesses. Yet such are required. Section 4 of the Act concerns the composition of the court. Sub-section (1) thereof states that an executive committee court shall be duly constituted by the members of the executive committee, not being less than five, sitting for the hearing of the case. Sub-section (4) states that where a quorum cannot be realized, the executive committee shall co-opt on the panel of the court such number of members of the local enable the court to realize a quorum. Emphasis is added.

The document which was sent to the Chief Magistrate by the L.C. I Court leaves a lot to be desired. Curiously what appears at the end of the ‘judgment’ as an endorsement of the same are two signatures, one of the Secretary and the other of the Chairman. Surely the two individuals cannot constitute the court as ordained by S.4 of the Act. As if this was not muddle enough,

halfway in the middle of the page preceding the last in the document features the following statement:

‘The committee sat as the following..... And other residents sat to give judgment to this case.’

Manifestly there was an irredeemable error in the process. First, only members of the committee or those co-opted will constitute the court. Secondly it should be clear in the proceedings who sat as a member of the court by mention of the individual’s name rather than by general reference as was the case in the L.C. 1 Court. Needless to say, those who constituted the court should have appended their signatures and relevant detail at the bottom of the judgment as an endorsement of what decision was arrived at. Sadly this was not the case.

This court in the unreported case of John Karahire vs Elizabeth Rwentaro, DR. Civil Appeal No. MKA 5 of 1994 held that where 49 members sat to hear a case as R.C.1 (the predecessor of L.C.1) Court, they had no jurisdiction to sit as a court. The judgment delivered was declared a nullity. Similarly, guided by that wisdom, I find that no proper court sat in judgment on the occasion as L.C.1 Court for Kakiika. The proceedings are hereby nullified. Having so determined, I find that no appeal properly went before the L.C.II Court of Kamukuzi Ward and its decision also is null and void.

P. K. Mugamba

Judge

10th June 2005