## THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT GULU HCT – 02 – CV – CA – 0001 – 2005 (Arising from : Civil Suit No. 0104 – 2002)

## 

## **BEFORE: HON. JUSTICE REMMY K. KASULE**

## JUDGMENT

This appeal is against the judgment of Magistrate Grade I, Lira, dated 21<sup>st</sup> December, 2004.

The appeal is on one ground the first ground, the appellant having abandoned the rest of the grounds in the memorandum of Appeal dated 18<sup>th</sup> April, 2005.

The ground complains that the learned Magistrate Grade 1 erred by failing to properly evaluate the evidence, the facts of the case and the law, thus arriving at a wrong decision, causing a miscarriage of Justice.

In his submission attacking the trial magistrate barred counsel for the appellant attacked the holding of court in awarding special damages in amounts that were inconsistent with what had been pleaded in paragraph 6 of the plaint as particulars of special damages.

This court, on considering what was pleaded as particulars of special damages in the stated paragraph of the plaint and what the learned trial magistrate awarded as special damages finds no inconsistencies between what was awarded and what was pleaded. The Learned trial magistrate, in a number of instances reduced the amount pleaded to a lesser amount. She was entitled to do that and she did so depending on the evidence adduced before her. This is very clear on pages 4 and 5 of the Judgment.

There is no merit in this ground of appeal, and since the other grounds of appeal were abandoned, this appeal stands dismissed with costs here and in the court below.

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Remmy K. Kasule Judge 28<sup>th</sup> November, 2008