

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MISCELLANEOUS APPLICATION NO. 440 OF 2005
(ARISING OUT OF MISCELLANEOUS APPLICATION NO.98 OF 2005)
(ARISING OUT OF MISCELLANEOUS APPLICATION NO. 815 OF 2004)

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW
AND
IN THE MATTER OF AN ORDER FOR MANDAMUS

BENON TURAMUREEBA And
132 OTHERS ::::::::::::::::::::::::::::::::::: APPLICANTS/DECREE HOLDERS

VERSUS

1. THE ATTORNEY GENERAL
2. THE TREASURY OFFICER OF ACCOUNTS/
SECRETARY TO THE TREASURY ::::::::::::::::::: RESPONDENTS/
JUDGMENT DEBTORS

BEFORE HON. JUSTICE REMMY K. KASULE

RULING

The applicants, Judgment Creditors in H.C.C.S. No. 207 of 1993, seek an Order of Mandamus of this Court to command the Treasury Officer of Accounts/Secretary to the Treasury, Government of Uganda, to satisfy in full the decree of this Court issued in H.C.C.S No. 207 of 1993, by paying at once and in full to the applicants' lawyers, Messrs B.K. Patel Advocates & Solicitors, P.O. Box 3099 Kampala, the balance of the decretal sum now due of Shs.635,580,000/=.

In H.C.C.S No. 207 of 1993, the applicants/Decree holders successfully sued the Attorney General of Uganda, for damages and compensation, by reason of their being unlawfully evicted

by Government Servants/and agents from their customary owned developed land in Mpokya and Mwenge in the then Kabarole District.

Judgment in the case was delivered on 12.04.99, by Mukanza, J, (RIP) and each of the applicants/decreed holders was awarded Shs.10,000,000/= compensation; and Shs.2,000,000/= exemplary damages. They were also awarded costs of the suit and interest at Court rate.

It is the case of the applicants/decreed holders that the Government has over time since the delivery of the Judgment on 12.04.94 paid and satisfied the decree by paying the principal sum of compensation and exemplary damages.

However the Government, as Judgment Debtor, has failed to pay in full the interest on principal sum which interest had accrued to Shs.765,580,000/= as at 05.07.05 when this application was filed in Court.

Since the filing of the application, the Government/Judgment debtor had paid Shs.50,000,000/= in November, 2005, and Shs.80,000,000/= in November, 2006, making a total of Shs.130,000,000/=. Thus Shs.635,580,000/= remains unsatisfied as of to-date.

From 26.09.05 up to 01.04.08, this application has been called up for hearing eighteen (18) times and in most of those times the Counsel for Attorney General, who also represents the Secretary to the Treasury, has requested for an adjournment so as to arrange for payment. Apart from the Shs.130,000,000/= which has been paid the rest of the sum due remains unpaid.

On 01.04.08, when the application was called up for hearing the Judgment Debtor, the Secretary to Treasury and their Counsel were absent, without any reason being communicated to court; though there was an affidavit of service showing Attorney General had been served with the hearing notice for the hearing date of 01.04.08 on 29th March 2008. Court thus acceded to the prayer of Counsel for the applicants/decreed holders to proceed with the hearing of the application in absence of the Judgment debtor/The Secretary to Treasury and their Counsel.

This court is satisfied that the sum of Shs.635,580,000/= balance of unpaid interest is due from the Judgment debtor to the Judgment Creditor.

Court is also satisfied that from 26.09.05 when this application was lodged in Court, to date i.e. April, 2008, a period of two years and eight months, is more than sufficient time for the respondents Judgment debtors to satisfy the decree in full by paying the sum due of Shs.635,580,000/=.

No plausible reason has been furnished to court as to why an order of Mandamus should not issue.

Accordingly this application succeeds. An order of Mandamus is hereby issued requiring whoever is holding the office of Treasury officer of Accounts/Secretary to the Treasury to pay on being presented with this order the sum of Shs.635,580,000/= to the applicants decree holders, through their lawyers, in full and final satisfaction of the decree in H.C.C.S No. 207 of 1993.

The applicants are awarded the costs of this application.

Remmy K. Kasule

Judge

8th April, 2008