

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
HOLDEN AT MBALE**

HCT-04-CV-MA-0090-2008

(Arising from HCCS No. 2 of 1994)

REMEGIO OBWANA.....APPLICANT/DEFENDANT

VERSUS

THE REGISTERED TRUSTEES

OF TORORO DIOCESE.....RESPONDENT/PLAINTIFF

BEFORE: THE HON. MR. JUSTICE MUSOTA STEPHEN

RULING

On 19th June 2008, the applicant got an interim order of stay of execution from the Registrar of this court.

Subsequently, and prior to hearing of the substantive application for stay of execution, the applicant filed a memorandum of Appeal in the court of appeal on 20th March 2009. On 20th October 2009, the respondent in civil Appeal 16 of 2009 in the Court of Appeal who happens to be the Registered Trustees of Tororo Diocese filed in the Court of Appeal Misc. Application 156 of 2009 challenging the validity of Civil Appeal 16 of 2009. This latter application is pending hearing by the Court of Appeal.

The substantive application for stay of execution in this court filed in 2008 i.e. Misc. App. 90 of 2008 was listed for hearing by this court on 15.6.2010. I allowed both Mr. Nagemi for the applicant and Mr. Oworu for the respondent to file written submissions in support of their respective cases. The submission revealed the chronology of this case as outlined above. Upon perusal of the record, I verified the said chronology.

After a careful perusal of the submissions and reference to what is on record, I am inclined to agree with the submission by Mr. Oworu for the respondent that this application appears to have been overtaken by events. From the time this application was filed in 2008, a lot of events have happened in the Court of Appeal. For example, a memorandum of appeal was filed. An application to challenge the validity of the said appeal was also filed.

It is not clear to this court what the actual position of the various matters pending in the court of appeal is. A stay of execution by a trial court is supposed to be a stop gap measure before the appeal takes root in the court of appeal.

It would not be prudent for this court to perpetually continue handling interim matters in matters pending in the court of appeal. Otherwise this court risks giving contradictory orders which will be absurd. This dispute no longer suits in two registries given the time lag.

Therefore in view of the pending challenge to the appeal in the court of appeal all matters pending and any remedies being sought by the applicant should be handled by the court of appeal.

This application will not be granted. It is this dismissed. Costs shall be in the cause.

Musota Stephen

JUDGE

19.8.2010

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Okwenye on brief for Nagemi for Applicant.

Applicant is in court.

Respondent and its advocate absent.

Kimono Interpreter.

Okwenye: I am instructed to receive the ruling.

Court: Ruling delivered.

Musota Stephen

JUDGE

19.8.2010

