

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA

AT SOROTI

HCT-09-CV- CR. NO. 0003/2012

ODIA MARTIN & ANOR.....APPLICANT

VERSUS

OSEGE STEPHEN.....RESPONDENT

RULING

BEFORE: HON JUSTICE MUSOTA STEPHEN.

This is an application for Judicial Review brought under s.36 of the Judicature Act and Rules 6, 7 and 8 of the Judicature (Judicial Review) Rule No. 11 of 2009. The applicants Odia Martin and Egaru Elias are represented Osege Stephen appears in person.

According to the Notice of Motion the applicants moved this court for orders that:-

- (a). The High court quashes by way of certiorari the respondents original suit
in the LC.III court of Soroti Sub county which should have been filed in Omalera LC.1 village court.
- (b). Mandamus does issue ordering the respondents and the applicants
to conduct a fresh trial in another court of competent jurisdiction.
- (c). General damages for the inconvenience suffered by the applicant as
a result of the respondents action against him be awarded.
- (d). Costs be provided.

The grounds of application are laid out in the notice of Motion and echoed in the supporting affidavit and are that the original suit ought not to have been filed in the LC.III Court. That the applicants were denied the record of proceedings and judgment to process the appeal.

Further that as a result the applicant's rights were violated including the principle of natural justice and fairness. That it is just and equitable that the orders sought are granted by this court.

In his affidavit in reply, the respondent denied the allegation by the applicants. He further deponed that the decision complained of was made on 29th October, 1997 and ever since he has

enjoyed quiet possession of the suit land. He denied conniving with the LC.III court officials and said the 1st applicant has never shown any interest to challenge the decision complained of for 15 years.

Proceedings for Judicial Review are governed by the Judicature (Judicial Review) Rules 2009. The time for applying for Judicial Review is found under Rule 5 thereof. Rule 5 (1) provides that:-

“(1) An application for Judicial Review shall be made promptly
And in any event within three months from the date when
The grounds of the application first arose, unless the court
Considers that there is good reason for extending the period
Within which the application shall be made.”

One of the reliefs sought in this application is an order of certiorari. According to Rule 5 (2):-

“where the relief sought is an order of certiorari in respect of any
Judgment, order, conviction in other proceedings the date when
the grounds for the application first arose shall be taken to be the
date of the judgment, order, conviction or proceedings” or when
the judgments brought to the notice of the parties.

From the submissions by Mr. Ogire learned Counsel for the applicants another response by their respondent, the decision, complained of was pronounced on 29th October, 197 almost 15 years ago. The instant application was filed on 14.2.2012. It goes without saying that this application was filed outside the time prescribed under Rule 5 of the Judicature (Judicial Review) Rules 2009. It was filed after the expiration of three months from the time they complained of judgment was pronounced. The applicants ought, therefore to have filed an application for extension of time within which to bring this application under R 5 (1). They did not do this. For

this reason alone, I am inclined to find that this application is not properly before court for having been filed out of time without leave of court. In the premises I cannot delve into pronouncing myself on the merits of the arguments advanced on both sides.

Consequently, I will order that this application be struck out with costs.

Musota Stephen,

JUDGE.

9.7.2012