

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

HCT-04-CV-MA-0006/2011

(Arising from Misc. Application No. 96/2010)

(Arising from HCCA No. 108/2008)

(Arising from Pallisa Civil Suit No. 76/2004)

- 1. MUBARAKA KAMU**
- 2. KADIJA NAWULA**
- 3. MADINA NAMBAYO**
- 4. NATANGALA FRANCIS.....APPLICANTS**

VERSUS

GALANDI STEPHEN.....ACCUSED

BEFORE: THE HON. MR. JUSTICE STEPHEN MUSOTA

RULING

Through M/s Musiiho & Co. Advocates, the applicants brought this application for review under O.46 rr 1, 2 and 8 of the Civil Procedure Rules (CPR) for orders of this court that:

- (a) An order of review of this court's judgment dated 22.12.2010 be granted.
- (b) The costs of the application be provided for.

The application is supported by an affidavit of the third applicant and are that:

1. The applicants did not file their submissions in the substantive appeal.
2. The court would have benefited from the submissions of their counsel in the said appeal.
3. The applicants are likely to suffer irreparable damage incapable of any monetary compensation.
4. The applicants were prevented by sufficient cause from filing their submissions and reply.
5. It is just and equitable in the circumstances.

In his submissions, **Mr. Musiiho** reiterated the contents of the application and the supporting affidavit.

In his affidavit in reply, the respondent opposed the application emphasizing that there is no sufficient cause to warrant grant of this application. This position is echoed in his advocate's submission in reply. That the applicants abused the opportunity given to them to file submissions for no good reason and have not attached any proposed submission onto the application. That this application be dismissed with costs.

As I have stated above, this is an application for Review brought under O.46 of the CPR. It is provided under the said order in Rule 1 thereof that:

***“1 (1) Any person considering himself or herself aggrieved
(a) By a decree or order from which an appeal
is allowed, but from which no appeal has
been preferred; or***

(b)By a decree or order from which no appeal is hereby allowed and who from the discovery of new and important matter of evidence which, after the exercise of due diligence, was not within his or her knowledge or could not be produced by him or her at the time when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason desires to obtain a review of the decree passed or order made against him or her, may apply for a review of the judgment to the court which passed the decree or made the order.”

The application for review is made to the Judge who made the order sought to be reviewed. If no sufficient ground is shown to warrant a review then the application has to be dismissed. When the application for review is granted, the court may at once rehear the case or make such order in regard to the rehearing as it thinks fit.

Clearly the application before me is devoid of any ground which justifies the hearing or grant of this application. There is no averment that anything which was not in possession of the applicants exists. There is no indication that they were not aware of the appeal or the schedule of writing and submitting their submissions. There is no indication that the record of appeal has any error apparent of mistake.

A look at the judgment of this court shows that with or without the said submissions, it reviewed and re-evaluated the evidence on record as a first appellate court and reached its conclusion. I have failed to find any injustice occasioned to any of the applicants. In any case submissions are not additional evidence. They may add but little value on the cases of the parties. The most important thing is that the appellate court is alive to its duty to re-evaluating the lower court's evidence and reaching its conclusion.

Consequently I will find that this is not a proper case in which this court can exercise its authority to review its decision. No reasons or sufficient cause exists to justify that.

I will dismiss the application with costs.

Stephen Musota

JUDGE

16.08.2012