

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT FORT PORTAL

MISCELLANEOUS CAUSE NO. 0061 OF 2019

(Arising from Miscellaneous Application No. 15 of 2017)

5 **(Arising from Miscellaneous Cause No. 24 of 2017)**

IN THE MATTER OF AN APPLICATION BY WAY OF JUDICIAL REVIEW

BETWEEN

MBABAZI ROSELYN TUSIIME.....APPLICANT/JUDGMENT CREDITOR

VERSUS

10 **1. ATTORNEY GENERAL**

2. TREASURY OFFICER OF

ACCOUNTS MINISTRY OF FINANCE.....RESPONDENT/JUDGMENT CREDITOR

BEFORE: HIS LORDSHIP HON. MR. WILSON MASALU MUSENE

15 **Ruling**

The Applicant brought this Application by Notice of Motion under **Articles 50 & 42** of the Constitution of the Republic of Uganda, 1995, **Section 33** of the Judicature Act, **Section 3** of the Judicature (Amendment) Act No. 3 of 2002 and **Rules 3, 4, 6, 7, and 8** of the Judicature (Judicial Review) Rules, 2009 against the Respondents for orders that;

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1. The Applicant be granted an order of mandamus to compel the Attorney General and Treasury Officer of Accounts Ministry of Finance to carry out their statutory duty to pay UGX 71,607,820/= (Seventy one million, six hundred, seven thousand eight hundred and twenty shillings only) and costs of these proceedings to the Applicant.
 2. An order for the Respondents to appear before the Court to show cause why they
- 25 should not pay the above sums and costs of this application.

3. The costs of and occasioned by this motion be provided by the Respondents with a certificate for Counsel or as the Court may direct.

The grounds supporting the application as per the affidavit sworn by Derrick Tukwasiibwe, briefly are as follows;

- 5 a. The Applicant is entitled to UGX 71,607,820/= (Seventy one million, six hundred, seven thousand eight hundred and twenty shillings only).
- b. A ruling was made against the 1st Respondent and others in Miscellaneous Application No. 15 of 2017 wherein the Applicant was awarded costs of the application and the Court ordered the 1st Respondent to pay the taxed costs.
- 10 c. The Applicant extracted a Certificate of Taxation and Certificate of Order against Government and duly served them on the 1st Respondent and the Applicant's lawyers made a written demand to the 1st Respondent for payment to no avail.
- d. The 2nd Respondent is the custodian of the accounts and the budget of the 1st Respondent who has the direct duty of satisfying Court awards which duty has been
15 breached.
- e. This Application for mandamus has been made without any delay.
- f. The Respondents have no lawful or plausible excuse not to pay the sums decreed and in a matter in which no appeal against the judgment was preferred.

Dr. James Akampumuza represented the Applicant and prayed that the application proceed
20 ex-parte under **Order 9 Rule 20(9)** of the Civil Procedure Rules since the Respondents were served but chose not to make a reply to the application. He also prayed that judgment be entered within the terms prayed for since the affidavit evidence as adduced for the Applicant was unchallenged. He relied on the cases of **Goodman Agencies Ltd and 3 Others versus Attorney General and Another, High Court Commercial Division**, and **Kampala and
25 Frank Milenge and 10 Others versus Attorney General and another, Miscellaneous Application No. 81 of 2015** under which the Applicant is entitled to the orders of mandamus. He added that in the authorities as cited the order of mandamus and costs were granted.

Having allowed the application to proceed ex-parte, and since this Court is satisfied that the
30 circumstances of this case warrant the grant of an order of mandamus under Section 37 of the Judicature Act, since from the evidence on record the Applicant is entitled to be paid the sum of UGX 71, 607, 820/= by the Respondents.

Furthermore, the Respondents are obligated under Section 19 of the Government Proceedings Act to satisfy the Judgment Decree having been served with a Certificate of order. In conclusion, I do hereby grant;

1. An order of mandamus directing the Attorney General and Treasury Officer of Accounts, Ministry of Finance, to pay a sum of UGX 71, 607, 820/= and the taxed costs of the proceedings to the Applicant.
2. Alternatively, it is ordered that the Respondents shall execute a bank guarantee to secure the decreed amount with costs.
3. The Respondents shall bear the costs of this application.

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WILSON MASALU MUSENE

JUDGE

15 **11/09/2019**