

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

**HCT-04-CV-CR-0009-2013
(From Buwatuwa Village, Buwatuwa Parish, Bukhabusi Sub-County, LC.I File No.
38)**

MALIRO DAVID.....APPLICANT

VERSUS

MASAYI WILSON.....RESPONDENT

BEFORE: THE HON. MR. JUSTICE HENRY I. KAWESA

RULING IN REVISION

This matter was drawn to the attention of the Judge for possible revision orders; under section 221 of the MCA, which empowers a Chief Magistrate to forward records for revision where in his/her opinion there are irregularities to be corrected on revision by the High Court.

The powers of executive committee. Courts are stated in the Executive Committees (Judicial Powers) Act,

The Act preserves the Supervisory role of the High Court over these courts under section 32 of the above law.

The Chief Magistrate, while forwarding the record for review pointed out that the proceedings are irregular and hence the need for revision.

I have carefully looked at all the availed records of proceedings and Judgment of the LC.I, LC.II and LC.III courts in this matter. I wish to point out the following observations about the proceedings before each court.

LC.I Court:

At the first appearance, the record indicates that the hearing was conducted on 24.08.2011 before a full committee. All parties gave evidence, and the matter adjourned on 31st August 2011 for witnesses. On 31st August 2011 two witnesses for the complainant testified and the witnesses for the defence also testified.

The record then shows that a Judgment was written and that the defendant did not agree with it. The Judgment is not on record. What is on record is a statement reporting what transpired on Judgment day and indicating that the decision was to be “looked into it for further forwarding.”

This is irregular as there is no decision of the court on record thereby violating section 17 of the Act.

The claim of shs.50,000/= is also not clearly resolved by the Committee, as the record seems to suggest that shs.25,000/= was given to the complaint. The procedure adopted by the LC. I Court is therefore found irregular, by this court.

At LC.II level the trial was conducted as a fresh case, not an appeal. The matter was referred to them by way of reference by the LC.I Chairman because the defendant had not conformed to the LC.I ruling.

The provisions of section 17 of the Act, were again compromised. The proceedings are not having a statement of claim or a memorandum of appeal, the record is not dated, the quorum of the court is not indicated and the record is not certified. I agree with the observations noted down by the Chief Magistrate on this LC.II record, and I also find it irregular.

The LC.III Court record is also similarly not a record of appeal. The court conducted a fresh trial. The rules governing the LC Courts are clear in that if a litigant starts the case at LC.I, then the case only goes to LC.II on appeal, and to

LC.III on further appeal. In a case of this nature the LC.I Court ought to have helped the complainant execute his judgment if the decision had not been appealed by defendant as it appears. However, the irregularity ran through and execution was done at LC.III. However as observed by the learned Chief Magistrate this execution was also illegally done. This is so because, there is no taxation bill on record, the decretal amount is not clear and the rules governing this exercise were not followed by the LC.III Court/executors (see section 23 of the Act) and third schedule of the Act.

Under section 14 of the Judicature Act this court has jurisdiction to revise the orders of the lower courts under reference by Chief Magistrate acting under Section 221 of the MCA, and section 32 of the Executive Committees (Judicial Powers) Act. For reasons found above I hereby order that the LC.I, LC.II and LC.III, Judgments and orders in this case **MALIRO DAVID V. MASAYI WILSON** be vacated for being found irregular.

An immediate retrial should be conducted before the Chief Magistrate to whom appeals from LC.III Courts ordinarily resides. I so order.

Henry I. Kawesa
JUDGE
23.08.2013