

said order was reversed by a successor Magistrate through an application for review. The applicant was aggrieved by the latter order hence this application.

The application is supported by the affidavit of the applicant Siraje Walakira on grounds that The reversal of an earlier decision by a latter Magistrate caused injustice to the applicant because the latter Magistrate cited no relevant reason to overturn the earlier decision apart from the respondents being LC officials.

The respondents Muwayire Bbale and Mikka Sebugwawo vehemently opposed the application for being baseless because the order complained of was not extracted by the applicant but rather by the respondent. That the applicant does not allege that the order sought to be revised was passed illegally or that the trial Chief Magistrate acted with material irregularity when delivering the same. Further that the injustice occasioned has not been substantiated.

Revision by High Court is governed by S. 83 of the Civil Procedure Act. This court is empowered to call for the record of any case which has been determined under the Civil Procedure Act by any Magistrate's Court and if that court appears to have:

- a) exercised a jurisdiction not vested in it in law.
- b) failed to exercise the jurisdiction so vested or
- c) acted in the exercise of its jurisdiction illegally or with material irregularity or injustice.

In the instant case, the successor trial Magistrate acted with material irregularity when she reversed her predecessor's decision when court was moved to review that decision.

Under S. 82 of the Civil Procedure Act, Review can only be made where any person considering himself or herself aggrieved:

- a) by a decree or order from which an appeal is allowed by the Civil Procedure Act but from which no appeal has been preferred or
- b) by a decree or order from which no appeal is allowed by the Civil Procedure Act.

This enactment is echoed under O. 46 of the Civil Procedure Rules.

There ought to be a discovery of new and important matter of evidence which, after the exercise of due diligence, was not within the applicant's knowledge or could not be produced by him or her at the time when the decree was passed or the order made.

It can also be made if there was a mistake or error apparent on the face of the record or for any other sufficient reason. None of these circumstances existed in the instant case.

I have considered this application as a whole and I was surprised by the reason the learned trial Magistrate gave for reviewing the orders of her predecessor. Being LC officials was not sufficient cause and did not comprise new evidence to warrant review of an order made earlier by

court. By so doing, the learned trial Magistrate committed a material irregularity.

Secondly, Review can only be done by the Magistrate who passed a decree or made the order unless he or she is unable to do it for six months next after the application for review has been made. From the undated ruling of the successor Magistrate it is difficult to ascertain whether the review order was made in accordance with the law or not as envisaged under O. 46 r 4 of the Civil Procedure Rules.

The order of the former Magistrate had been extracted regardless of who did it. Therefore the argument that it was not extracted by the applicant has no effect at all.

Consequently the review order complained about will be revised and set aside with costs to the applicant.

Stephen Musota

J U D G E

02.09.2014