

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**CIVIL DIVISION**  
**CIVIL APPEAL NO.002 OF 2014**

**NTWATWA JACKSON                    ::::::::::::::::::::::::::::::: APPELLANT**

*VERSUS*

**SEYANI BROTHERS                    ::::::::::::::::::::::::::::::: RESPONDENT**

**BEFORE: HON. MR. JUSTICE STEPHEN MUSOTA**

**JUDGMENT**

This is an appeal from the decision and orders of the learned Chief Magistrate Makindye in Civil Suit No.143 of 2011. The grounds of appeal are that:

1. The trial Chief Magistrate erred in law and fact when she failed to properly or at all evaluate the evidence on record.
2. The trial Chief Magistrate erred in law and fact when she dismissed Civil Suit No.143 of 2011 for lack of jurisdiction.

The appellant, who appeared in person proposed that the appeal be allowed and the ruling and orders of the Chief Magistrate be set aside with costs.

According to the certified record, which appears incomplete, the trial Chief Magistrate reserved the suit for cross examination of Pw1 on his witness statement for 23<sup>rd</sup> January 2014 at 2pm. The defendant was ordered to file witness statements by that day. However, on the adjourned date counsel for the defendant submitted that he failed to file the statement because the witness was out of the country and needed more time to do so. The Magistrate instead made the following ruling,

***“Case dismissed for lack of jurisdiction. Let each party bear its own costs. This is a labour matter.”***

This prompted this appeal. The appellant did not file a decree.

At the hearing of the appeal, the appellant submitted that it was wrong for the Chief Magistrate to dismiss the case because S. 1(a) of the Workmen’s Compensation Act allows court to hear such cases as the instant one. That the cause of action fell under the jurisdiction of the Chief Magistrate.

In reply, Mr. Nsubuga emphasized that since there is no order or decree from which the appeal arose, it renders the appeal incompetent. That the learned trial Magistrate was right because the claim by the appellant is a matter for the labour court. He prayed that the appeal be dismissed.

Qqw12As rightly submitted by learned counsel for the respondent, appeals are from orders or decrees from the trial courts. Without any order or decree appealed against, such an appeal is rendered

incompetent and has to be struck out. This would have been the fate of this appeal. However, from the submissions of the appellant, an illegality has been pointed out and drawn to the attention of this court which overrides any issue of pleading and that is, that the learned Chief Magistrate abdicating her jurisdiction which the law confers upon her.

According to section 93(6) of the Employment Act 2006, a claim in tort arising out of the employment relationship shall be brought before a court and the labour officer shall not have jurisdiction to handle such a claim.

Another law The Workmen's Compensation Act Cap. 225 enacts in S. 14 thereof that:

***"If any employer on whom notice of the accident has been served under Section 9 does not within 21 days after receipt of the notice agree in writing with the worker as to the amount of compensation to be paid, the worker may in the prescribed form and manner, make an application for enforcing the claim to compensation to court having jurisdiction in the district in which the accident giving rise to the claim occurred.***

***2.All claims for compensation under this Act, unless determined by agreement and any matter, except disputes as to the assessment of disability under Section 13 arising out of proceedings under this Act shall be***

***determined by the court whatever may be the amount involved.***

It is further provided in this law under Section 17 that:

***“(i) when the injury in respect of which compensation is payable under this Act arises from an accident the circumstances of which create a legal liability on the employer, either directly or vicariously or on some other person for which the worker may recover damages in an action at law, the worker or person authorized to bring proceedings on his or her behalf may not withstanding this act bring proceedings to recover damages.”***

From the wording of these provisions, it is apparent that some claims especially arising from torts accruing from work related incidents are triable in ordinary courts and not the Industrial Court.

In the Workmen’s Compensation Act S. 1 thereof, “court” means a Magistrate’s court established under the Magistrates Courts’ Act presided over by the Chief Magistrate or a Magistrate Grade I having jurisdiction in the area where the accident to the worker occurred.

It is other labour disputes which are not torts that are handled by the Industrial Court hierarchy under the Labour Disputes (Arbitration and Conciliation) Act 2006, which provides that a labour dispute whether existing or apprehended maybe reported in writing to the labour officer

by a party to the dispute in such a form containing such particulars as may be prescribed by regulations made under the Act. Under S. 5 of the same Act if four weeks after receipt of the dispute has not been resolved in a manner set out in S. 4 or a conciliator appointed under S. 4(b) considers that there is no likelihood of reaching any agreement, the labour office shall at the request of any party to the dispute and subject to the S. 6 refer the dispute to the Industrial Court.

Therefore the labour officer only has jurisdiction to handle labour related issues in which the claim involved is not tortious in nature.

It was therefore erroneous for the learned trial Magistrate to abruptly halt proceedings in the plaintiff's case purportedly for lack of jurisdiction. Since this error has been drawn to my attention I could not leave it unresolved so that the legal record is made clear. The dismissal of the plaintiff's case was irregular and of no consequence. Civil Suit 143 of 2011 must be reinstated and heard on merit.

Since the appeal was not competent in the first place, I will award no costs. I so order.

**Stephen Musota**

**J U D G E**

**26.08.2014**