

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT JINJA**

MISC. APPLICATION NO. 221 OF 2011

ARISING FROM REVISION CAUSE NO. 001 OF 2006
ARISING FROM KALIRO CIVIL SUIT NO. 033 OF 2002

**MUNOBWA
MOHAMED
APPLICANT**

.....

VERSUS

**UGANDA MOSLIM SUPREME COUNCIL :::
RESPONDENT**

**BEFORE: THE HON. MR. JUSTICE GODFREY
NAMUNDI**

RULING/ORDER

This application was filed under Section 33 of the Judicature Act, Section 98 of the Civil Procedure Act, order 48 r. 1 & 3 and Order 52 r. 1, 2, and 3 of the Civil Procedure Rules.

It seeks orders for stay of execution of the Order/Decree arising from Civil Revision 1/2006,

pending the determination of a Civil Appeal in respect of the said Orders.

The Order in Revision was delivered by Hon. Lady Justice Irene MulyagonjaKakooza on 26/8/2010, dismissing an application for Revision of the Orders of the lower Court in Civil suit 33/2002 held at Kaliro Court.

The Applicants then filed a Notice of Appeal in this Court on 9/9/2010 and according to the Notice of Motion and the affidavit in support thereof, applied for a record of proceedings to enable the Applicants file the appeal in the Court of Appeal.

This application has not been heard since then with the record filled with applications for adjournment for one reason or another. I have counted over 10 adjournments since the application was filed and there is no sufficient justification for the said adjournments.

I have also looked at the provisions of law regarding the filing of Appeals against Revisional Orders under Section 83 of the Civil Procedure Act.

First I have failed to see the relevance of Order 48 r. 1 & 3 of the Civil Procedure Rules which is quoted as one of those under which the application is brought.

That provision/Order is in respect of District Registries. This Court is not a District Registry so citing Order 48 r. 1 & 3 is irrelevant to this matter.

I also observe that under Section 76 of the Civil Procedure Act which regulates/governs Orders from which appeals line, an Order of this Court on Revision cannot be appealed against automatically within the provisions of Section 76 of the Civil Procedure Act.

If the Applicant wished to appeal against the decision of the Hon. Judge, then they had to apply for leave to appeal from this Court or from the Court of Appeal if this Court denied the said leave. This has not been done so the instant application is not properly before this Court.

There can be no application for Stay of execution pending a non-existent appeal. The said leave should have been under the provisions of Order 44 (3) and (4) of the Civil Procedure Rules.

All in all I find that this application is incompetent as it seeks a stay of execution pending a non-existent appeal.

It is struck out with costs to the Respondents. The Orders made on Revision in Misc. Cause 1/2006 are to be enforced accordingly.

Godfrey Namundi
Judge
12/6/2014

12/6/2014:
Applicant absent
Respondents present
Munulo for Respondents

Court: Ruling read in Court.

Godfrey Namundi
Judge
12/6/2014