

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**CIVIL DIVISION**

**MISC. CAUSE NO. 0116 OF 2015**

**IP MUGUMYA ::: APPLICANT**

**VERSUS**

**ATTORNEY GENERAL ::: RESPONDENT**

**BEFORE: HON. JUSTICE STEPHEN MUSOTA**

**RULING**

This is an application by Notice of Motion for Judicial Review of the decision of the Inspector General of Police interdicting the applicant from his position as Officer in Charge Kira Road Police Station since 2011. The applicant seeks prerogative orders of mandamus, prohibition, certiorari, general, exemplary and punitive damages and costs of the application. The application was brought under Articles 44 and 50 of the Constitution of the Republic of Uganda, Section 33 and 36 of the Judicature Act and Rules 3,4,5,6 and 7 of the Judicature (Judicial Review) Rules SI 11 of 2009.

At the hearing of the application the applicant was presented by Mr. Deo Mukwaya on brief for Mr. Rwakafuzi. The respondent was represented by Ms. Genevieve Kampire, a State Attorney.

Learned counsel for the respondent raised a preliminary objection regarding the legality of the application. She submitted that the application for Judicial Review was filed out of time contrary

to Rule 5 of the Judicature (Judicial Review) Rules which provides that such applications like the instant one shall be made promptly or within three months from the date when the ground of application first arose unless court considers that there is good reason to extend the time. That since the complaint is about interdiction which happened on 6<sup>th</sup> July 2011, filing the application on 11<sup>th</sup> August 2015 was out of time.

In reply learned counsel for the applicant submitted that the preliminary point of law is misconceived because the application was not only brought under the Judicature (Judicial Review) Rules but was also brought under other laws like Article 41 and 50 of the Constitution and Sections 41 and 42 of the Judicature Act. That those provisions don't provide for any time limitation. That the limitation is statutory whereas the Judicature (Judicial Review) Rules are a mere subsidiary legislation by the Chief Justice which can't over ride other statutory provisions of the Constitution or the Judicature Act.

Under Rule 5 of the Judicature (Judicial Review) Rules it is enacted as follows:

“5. Time for applying for Judicial Review

- (1) An application for Judicial Review shall be made promptly and in any event within three months from the date when the grounds of the application first arose, unless court considers that there is good reason for extending the period within which the application shall be made.
- (2) -----”

It is clear from the above rule that an application for Judicial Review has to be filed within three months from date when the grounds of the application first arose unless an application is made for extension of time. The arguments by the learned counsel for the applicant that the rules should not be followed because the application is brought under other laws as well does not arise. When one is seeking for orders of Judicial Review, there is no need to go outside the

Judicial Review Rules which stipulates the remedies in Judicial Review. Therefore the time limits stipulated in rules apply and are still good law. The authority of **Bukenya Church Ambrose Vs Attorney General Constitution Petition No. 26 of 2010** relied upon by learned counsel for the applicant for allegations that the rules were declared unconstitutional is quoted out of context. That authority challenged rules for enforcement of rights and freedoms and not the Judicature (Judicial Review) Rules.

Consequently I will find that by challenging an interdiction made on 6<sup>th</sup> July 2011 in an application filed on 11<sup>th</sup> August 2015 was clearly out of time. This application can't be sustained.

I will uphold the Preliminary Objection by Ms. Kampire and order that this application be struck out with costs to the respondent.

**Stephen Musota**

**J U D G E**

**14. 03. 2016**