

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

MISCELLANEOUS APPLICATION No. 510 OF 2016

(Arising from Misc. Application No. 529 of 2015)

(Arising from Miscellaneous Cause No. 166 of 2014)

- 1. THE REGISTERED TRUSTEES OF FEDERATION
OF UGANDA FOOTBALL ASSOCIATIONS**
- 2. RWANIKA CHARLES** **:: APPLICANTS**
- 3. EMBUGA BANAABA MUSONGE MOSES**
- 4. MUTASA HASSAN**

Versus

**MINISTRY OF LANDS, HOUSING &
URBAN DEVELOPMENT** } **RESPONDENT**

BEFORE: HON. MR. JUSTICE STEPHEN MUSOTA

RULING

This is an application by notice of motion brought under order 44 rule 1 (3) and rule 4 of the Civil Procedure Rules, for orders that;

1. Leave be granted to the applicants to appeal against the ruling and orders of the learned Trial Judge in Miscellaneous Application No. 529 of 2015.
2. Costs of the application be provided for.

The grounds of the applications as set out in the notice of motion are that;

1. *The respondent filed Miscellaneous Application No. 529 of 2015 to set aside judgment and orders in Miscellaneous Cause No. 166 of 2014;*
2. *The application was heard and allowed by the Trial Judge on 9th May 2016;*
3. *The applicants being dissatisfied with the said decision are interested in appealing against it;*
4. *However the orders made therein are only appealable with leave of court and thus necessary to seek leave of this court to appeal against the said orders;*
5. *That the intended appeal has high chances of success as the learned Trial Judge erred in law and holding that the respondent was not a sueable entity in judicial review and that the suit was not even sustainable/tenable against the respondent;*
6. *That the applicants' rights were violated by the said orders in Miscellaneous Application No. 529 of 2015;*
7. *That there are serious points of law touching the applicants' rights that need to be addressed by a higher court.*

The application is supported by the affidavit of Rwanika Chris a trustee of the 1st applicant. The respondent did not oppose the application. The matter proceeded exparte.

At the hearing of the application, the applicant was represented by Mr. Allan Mulindwa.

I have considered the application as a whole, the law applicable and the submissions of counsel for the applicant and I will go ahead and resolve the issue whether the applicants are entitled to leave of court to file an appeal against the ruling in Miscellaneous Application No. 529 of 2015;

In **Sango Bay Estates Ltd & Others Vs Dresdner Bank [1971] EA Spry V-P** stated that;

“leave to appeal from an order in civil proceedings will normally be granted where prima facie it appears that there are grounds of appeal which merit serious judicial consideration, but where, as in the present

case, the order from which it is sought to appeal was made in the exercise of a judicial discretion, a rather stronger case will have to be made out.”

In *Humphrey Nzeyi V Bank of Uganda and the Attorney General of Uganda Constitutional Application No. 01 of 2013*, it was held that;

“The court has to exercise its discretion by considering all the relevant facts of the case, but in doing so, it has to restrain itself from attempting to resolve complex issues of disputed facts or those of law at this stage, and leave the same to be resolved in the substantive main cause or suit. The court however, is not precluded from considering the strength or weakness of each party’s case, but may do so only where it is apparent from the affidavit evidence and exhibited documents.”

I note that the applicants wish to appeal against the findings as per the grounds set out in the notice of motion. It is the applicants’ contention that the intended appeal has a high likelihood of success as it raises matters of law and fact that need to be adjudicated over by the court of appeal. The applicants’ wish to test the findings of this court at a higher leave will therefore not be unreasonably fettered.

Accordingly, leave to appeal will be granted.

I so order.

Stephen Musota

J U D G E

17.08.2016.