

He relied on the case of *National Medical Stores V. Penguins Ltd High Court CA 29(2010)* (unreported). On that authority and that of *Mubiru & Others V. Kayiwa (1979) HCB 212*, he invited court to find that award was irregular and a nullity, and should be set aside in revision.

In response counsel for Respondent argued that the learned trial Magistrate's award did not exceed her pecuniary jurisdiction because the Respondent was awarded special damages of Shs. 41,000,000/=, general damages of Shs. 5,000,000/=, interest at 28% per annum from filing to payment in full and costs taxed at 7,985, 500/=. The award of damages was Shs. 46, 000,000/= which is below 50 millions. He argued that interest and costs awarded are not limited by pecuniary jurisdiction. He referred to the *Authority of National Medical Stores* (supra) for the above position.

I have examined the above submissions and case law as quoted. It is the law as per *National Medical Stores* (supra) that costs are not considered in determining the pecuniary jurisdiction of any court.

Also in *Uganda Commercial Bank ltd V. Twala HCCR 16/1998* (unreported) It was held that;

“Interest on the decretal sum is not part of the subject matter for purposes of determining pecuniary jurisdiction.”

However in awarding damages courts should keep within pecuniary jurisdiction (per *National Medical Stores V Penguin Ltd*) (supra) :

Following from the above the award of 46, 000,000/= in damages was below the 50,000,000/= threshold. Therefore the learned trial magistrate did not work outside her pecuniary jurisdiction as argued by applicant.

Regarding the other grounds raised about the taxation award, and the Judgment being entered under O. 17 r.4 of the Civil Procedure Rules, I agree with counsel for Respondent that these are not matters for revision but appeal.

Section 83 of the CPA which governs revisions by the High Court, restricts revision to be applied only where a matter has been determined by the subordinate court, but that court appears to have;

- a) Exercised a jurisdiction not vested in it by law.
- b) Failed to exercise jurisdiction vested in it.
- c) Acted illegally or with material irregularity or injustice.

Looking at the submission by the applicant, and evidence in support of the notion, the issues raised do not fall under any of the categories above.

1. The Chief Magistrate had the jurisdiction to try the matter and to tax the bill.
2. The Chief Magistrate taxed the bill and made an award (so didn't fail to exercise jurisdiction).
3. There was no illegality or irregularity committed in the exercise of this jurisdiction.

What the applicant is challenging is the outcome not the process. The outcome of the entire court process if it is to be revisited calls upon this court to re-evaluate the evidence, scrutinize the proceedings and listen to arguments which basically would be akin to hearing the matter a fresh. At this revision stage, court cannot wield powers of an appellate court. This is therefore not a matter to raise by way of revision. I therefore agree with Respondent's counsel that the arguments raised against the taxation award and procedure under O.17 r. 4 of the Civil Procedure Rules, should have been raised on appeal, or seek the remedy for review under Section 98 CPA.

For reasons above this application fails and is not granted. It dismissed with costs to the respondent.

Henry I. Kawesa

JUDGE

25.04.2017