

THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA AT MASAKA  
MISC. APPLICATION NO. 15 OF 2021  
(ARISING FROM CIVIL SUIT NO. 025 OF 2001)

KIRONDE ISSA ..... APPLICANT

VERSUS

1. SECRETARY TO THE TREASURY –  
MINISTRY OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT

2. ATTORNEY GENERAL ..... RESPONDENTS

*Before; Hon. Justice Victoria Nakintu Nkwanga Katamba*

**RULING**

This application was brought under Section 37 (1) of the Judicature Act, Section 19(3) and Section 21 of the Government Proceedings Act and Order 52 Rules 1 & 3 of the Civil Procedure Rules for orders;

- a) An order of mandamus against the Respondents compelling them to pay to the Applicant Ugx 870,000/= and accrued interest of 18% per annum since April 2019, Ugx 18,000,000/= and accrued interest of 6% from the date of judgment, taxed costs of Ugx. 5,579,000/= and Ugx. 6,195,000/= as reflected in the certificate of order against Government,
- b) Costs of the application.

The grounds of the application as contained in the affidavit of Guma Davis Banda of M/S Guma & Co. Advocates are briefly that;

- a. The Applicant filed Civil Suit No. 025 of 2001 against the 2<sup>nd</sup> Respondent and judgment was entered in his favor with orders to pay him Ugx 870,000/= as special damages and interest of 18% per annum, and Ugx 18,000,000/= and interest of 6% per annum from the date of judgment,
- b. The Applicant filed a bill of costs which was taxed at Ugx. 5,579,000/= and Ugx. 6,195,000/= for the suit and Misc. Applications Nos. 18 and 19 respectively;

- c. A certificate of order was accordingly issued against Government and served on the 2<sup>nd</sup> Respondent demanding payment, but to date, it has never been honored;
- d. The failure to pay amounts to infringement of the Applicant`s constitutional right to property;

An affidavit of service is on record showing that service was effected on the 2<sup>nd</sup> Respondent, however, there is no response to the application on file.

Counsel for the Applicant submitted that no effort has been made by the Respondents to comply with the Orders of court despite several reminders. Counsel cited and relied on the case of *Janet Kobusingye Vs Uganda Land Commission MC No. 28 of 2013* on the parameters of the order of mandamus and stated that this is a proper case for this court to invoke its inherent powers to defeat the injustice against the Applicant.

**Consideration of the application;**

This application is for the grant of an Order of Mandamus compelling the Respondent to pay monies owed to the Applicant being the decretal amount and costs of miscellaneous applications arising from, and Civil Suit No. 025 of 2001.

*Section 36 (1) of the Judicature Act Cap 13*, provides for the power of the High Court to issue orders under judicial review. It provides as follows;

“(1) The High Court may make an order, as the case may be, of-

- (a) mandamus, requiring any act to be done;
- (b) prohibition, prohibiting any proceedings or matter; or
- (c) certiorari, removing any proceedings or matter to the High Court.”

An order of mandamus is in effect a command ordering the Respondent to do or implement a certain action. An *order of mandamus* has been defined in *Halsbury’s Laws of England,2001, 4th Ed,Vol.1(1).para.119 at p.268* as follows:

*“A command issued by the High Court, directed to any person, corporation or inferior tribunal requiring him or them to do some particular thing specified in the command and which appertains to his or their office, and is in the form of a public duty”.*

An order of mandamus is meant to command or compel the party against whom it is issued to do a certain act specified in the order.

In the instant case, the Applicant is a judgment debtor and holds a Certificate of Order against Government/the Respondent issued on the 18<sup>th</sup> day of October, 2019 certifying that he is entitled to payment of the monies stated in the Order.

The Applicant`s averments that his efforts to obtain the monies have been futile were not controverted by the Respondents.

The Applicant further adduced an advert indicating that he was to be paid the said amounts. It was however stated that when he appeared for verification, he was turned away under unclear circumstances. These allegations are also uncontroverted.

The Applicant has adduced sufficient evidence to prove that he is entitled to the amount contained in the Certificate of Order and that all efforts to obtain the said amounts have been futile. I therefore find that this is a proper case warranting the grant of an Order of Mandamus.

An Order for mandamus is hereby issued compelling the Respondents to pay the Applicant`s monies stipulated in the Certificate of Order.

I so order.

Dated at Masaka this 17th day of January, 2022

**Signed;**



**Victoria Nakintu Nkwanga Katamba - Judge**