

5 THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
CRIMINAL DIVISION
CRIMINAL REVISION CAUSE NO.026 OF 2022
(ARISING FROM NANSANA MISC.CAUSE NO.1637 &4194 OF 2022)

10 ENTEC ELECTRICAL EQUIPMENT COMPANY LIMITED-----APPLICANT
VERSUS

UGANDA-----RESPONDENT

BEFORE HON: JUSTICE ISAAC MUWATA

15 **RULING**

This application is brought under section 48 and 50 of the Criminal Procedure Code Act. It is supported by the affidavit of Hu Zhehenge a director of the applicant. The applicant seeks the following orders;

- 20 ***1. That the orders granted in Nansana Misc.Cause No.1637 &4194 of 2022 freezing the applicants bank accounts be revised and set aside and costs of the application.***

The applicant contends that the learned trial magistrate exercised jurisdiction not vested in him in granting the said orders, he also further contends that the same were granted without according the applicant a fair hearing

Both parties filed their written submission in respect of this matter which I have considered

Consideration

30 In accordance with section 50(2) of the Criminal Procedure Code Act I have listened and considered the submissions of the parties and the main issue for determination by this court is whether the learned trial magistrate had the jurisdiction to grant the orders in Misc. Cause No.1637 and 4194 of 2022

Jurisdiction may be defined to be the power of the court to hear and determine a cause, to adjudicate and exercise any judicial power in relation to it. Jurisdiction

35 means the power conferred by law upon the court to try and hear the cases and give appropriate judgements.

It is important to point out that jurisdiction is determined on the basis of pleadings and not the substantive merits of the case.

Jurisdiction is in three categories, namely; (a) subject matter jurisdiction, i.e. whether the particular court in question has the jurisdiction to deal with the subject matter in question;

(b) territorial jurisdiction, i.e. whether the court can decide upon matters within the territory or area where the cause of action arose; and,

(c) pecuniary jurisdiction i.e. whether the court can hear a suit of the value of the suit in question. These three categories of jurisdiction are prerequisite to the assumption of a court's jurisdiction

According to section 6 of the Magistrates Courts Act, every magistrate appointed under the Act is deemed to have been appointed to, and have jurisdiction in each and every magisterial area but may be assigned to any particular area or to any magisterial area by the Chief Justice. According to section 3 of the Magistrates Courts Act, magistrate's courts are designated and are known as the magistrate's court for the area in respect of which they have jurisdiction. The purpose of these provisions is to ensure that the authority of the various magistrates is limited to a certain well defined territory. *See: Uganda V Wadri & 31 others [2018] UGHCCRD 151*

In the instant case, it is not disputed that the applicant's office is located at Plot 28, Malaba Tororo South, Tororo District and the directors of the applicant's company are residents at Plot 58 Ismail Road, Mbuya Nakawa Division. The *Magistrates Courts (Magisterial Areas) Instrument ,2017 SI No.11 of 2017* currently in force under item 81 indicates the areas covered by the Chief Magistrates Court at Nansana and the area of Tororo and Nakawa are certainly not one of those areas. The court that would have handled the matter is either the Chief Magistrates Court in Nakawa or Tororo.

There was no basis to prosecute the matter at the Chief Magistrates Court of
65 Wakiso at Nansana a court not clothed with the territorial jurisdiction.

Issues of jurisdiction are substantive and go to the core of a case and if a court
lacks jurisdiction whether pecuniary or territorial, over the subject matter, its
judgement and orders however precisely certain and technically correct, are of
no legal consequences and may not only be set aside anytime by the court in
70 which they were rendered, but declared void in every court in which they are
presented. **See: Gabula Benefansion Vs Wakidalu Meraso HCT Civil Appeal
No.29 of 2006 (High Court at Jinja)**

The respondent has also admitted in her pleadings to having prosecuted the
matter in the wrong court. It is thus my finding that learned Magistrate
75 misdirected himself in law in assuming a jurisdiction not conferred on him by
the law. The principle that jurisdiction is a creature of statute cannot be
overemphasized.

I also note that the same matter is currently before the Civil Division of the High
Court wherein the operations of impugned accounts have been stayed vide **High**
80 **Court Civil Division Misc. Application No.146 of 2022**. For avoidance of doubt,
this ruling is not intended in any way to affect the proceedings in that court,
however the impugned orders of the learned trial magistrate are set aside and
declared null and void.

The lower court files are accordingly returned to the lower court for filing away.
85 I so order.

JUDGE

15/09/2022