

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
CIVIL APPEAL NO. 48 OF 2008

HAJATI MASITULA NALUBOWA

APPELLANT

VERSUS

SWAIBU NSAMBA

RESPONDENT

RULING

BEFORE HONOURABLE LADY JUSTICE EVA K. LUSWATA

In the previous hearings of this court it transpired that the present appeal is one and the same in terms of subject matter and parties as that filed in Nakawa High Court circuit as Civil appeal No.36/2007. This was confirmed by both parties and documents retrieved from the Nakawa High Court. Counsel for the appellant did indicate that he intended to pursue the appeal in Nakawa by applying for its reinstatement. Clearly, therefore, this appeal now becomes redundant. However, I did mention at the last hearing of 26/2/04 that I would pronounce myself on this appeal after proper investigations at the court Registry.

On 17/3/14, the registrar of this court confirmed to me that according to the records at the registry, C/a No. 48 of 2010 (**Mastula Nalubowa Vs Swaibu Nsamba**) was filed in this court on 13/10/10. It has been heard by Hon Justice Anna M.J. Hon. Percy N. Tuhaise and I . That according to the CCASS system it last came up for hearing on 26/2/14. Much of the above facts are supported, save for the fact that I was unable to see any of the proceedings involving my sister Judges. Significantly also, is the absence of any memorandum of appeal ever being filed in this court in respect of C/A No.48 of 2010.

According to Order 43 Rule 1 (1), an appeal to the High Court is commenced by the intended appellant lodging a memorandum of appeal with the court. No such memorandum exists on this record with respect to C/A No. 48 of 2010. Although the CCASS record shows that the appeal was filed in this court on 12/10/10, it is redundant since there was an earlier appeal filed in the Nakawa High Court Circuit on 18/10/07, which took precedence as being filed first in time. Also, as I have said, there is no memorandum of appeal.

For the above reasons, I find that C/A 48 of 2010 has never been properly filed in this court. It is redundant and cannot remain on the record. It is accordingly dismissed and I direct that the file be closed.

I so order.

EVA K. LUSWATA

JUDGE

25/3/14