

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
LAND DIVISION
MISCELLANEOUS APPLICATION NO. 452 OF 2023
ARISING FROM TAXATION APPLICATION NO. 222 OF 2022
ARISING FROM EMA NO. 228 OF 2018
ARISING FROM HCCS NO. 0029 OF 2016.
GODFREY NYAKANA APPLICANT
VERSUS
LUYIGA DAVID RESPONDENT
BEFORE HON.LADY JUSTICE FLAVIA NASSUNA MATOVU
RULING.

This matter was referred to the judge by the deputy registrar after realising that she had no jurisdiction to entertain the application. At the time the same was referred to the judge parties had already filed their respective submissions.

After carefully studying the entire record of proceedings I noted as follows:

- a) The applicant seeks to set aside the exparte taxation ruling that was issued by the deputy registrar of 25/1/2023 in relation to the above matter.
- b) The basis of the application is that the applicant was never served with court process before the taxation application was heard.
- c) The respondent insisted that the applicant was duly served with court process through his advocates M/s. Barnabus Dyadi & Co. Advocates.

- d) However, perusal of the record shows that at all material times applicant's advocates were M/s/ Kabega Bogezi & Bukenya Advocates. Indeed, these were the advocates who represented him up to the time the judgment was delivered.
- e) There is nothing on record to show that the applicant ever withdrew instructions from M/s Kabega, Bogezi & Bukenya advocates and instructed M/s. Barnabus D.K. Dyadi & Co. Advocates.
- f) The circumstances under which the respondent opted to serve M/s Barnabus D.K. Dyadi & Co. Advocates are not clear.
- g) It is therefore true that the applicant was not duly served with court process before the court opted to proceed ex parte against him. The applicant has thus shown sufficient cause as to why he did not attend court on the day the taxation application was heard. He was not served with court process, which denied him a right to be heard and thus occasioned an injustice to him.
- h) For the above reasons, the said taxation ruling is accordingly hereby set aside and the matter should be heard inter-party.

Each party shall bear their costs for this application.

DATED at Kampala this ... 23rd ... Day of November 2023


FLAVIA NASSUNA MATOVU

JUDGE.