

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
REVISION CAUSE NO. 024 OF 2023
(ARISING FROM CASE NO. 028/2022-23 LOCAL COUNCIL
III COURT KATABI TOWN COUNCIL)

LUVULE RONALD ::: APPLICANT

VERSUS

KASIRIVU RICHARD ::: RESPONDENT

BEFORE; HON. LADY JUSTICE NALUZZE AISHA BATALA

RULING ON A PRELIMINARY OF OBJECTION

Introduction;

1. This is a ruling in respect of a preliminary objection that was raised by the respondent during mention. The objection is based on a claim that the applicant's application is wrongly brought before this court and prayed that the same be dismissed with costs

Background;

2. Luvule Ronald herein after referred to as the applicant brought this application against Kasirivu Richard herein

after referred to as the respondent for orders that the ruling and orders made by the Local Council III Court, Katabi Town Council be revised and set aside.

Representation;

3. The applicant was represented by Mr. Tumwesigye Everisto of M/s Kabusu Muhumuza & Co. Advocates whereas the respondent was represented by Mr. Lubega Robert of M/S Lunar Advocates. Both counsel made oral submissions which I have considered in the determination of this objection.

Issue for determination;

- i) ***Whether the applicant's application is properly brought before this court?***

Resolution and determination of the issue;

4. Counsel for the respondent raised a preliminary objection that this court does not have jurisdiction to hear the instant application.

5. Counsel submitted that the application is frivolous, vexatious and a mere waste of court's time. He further stated that the same ought to have been filed before the



Chief Magistrates Court since it is the court vested with Supervisory powers over the Local Council Courts in the first instance before one can proceed and apply for revision in the High Court.

6. Counsel also submitted that the applicant filed a notice of appeal in the Chief Magistrates Court hence an appeal which he should prosecute before he can proceed with the Revision Cause.
7. Counsel for the applicant in reply submitted that this court has jurisdiction to hear the application pursuant to section 40 of the Local Council Courts Act.
8. He further stated that the supervisory powers delegated to the Chief Magistrates Court do not in any way oust the jurisdiction of the High Court to revise a decision of the Local Council Courts.
9. In other words, the High Court is still seized with jurisdiction to hear the application for revision notwithstanding the delegation of the same powers to supervise Local Council Courts. Counsel relied on the decision **Pascal Juma Wasike Vs Alex Onyango Situbi & Anor MA 04 of 2010**.



10. Counsel also submitted that a notice of appeal does not indicate that a substantive appeal has been filed. In other words, an appeal is not initiated by a notice of appeal but with a memorandum of appeal.

11. Section 40 of the Local Council Courts Act 2006 provides thereof that the general powers of supervision over Magistrates' Courts conferred upon the High Court by the Judicature Act may be exercised by the Chief Magistrate over Local Council Courts on behalf of the High court.

12. The issue of jurisdiction of this court to entertain revision applications arising from Local Council Courts is now settled.

13. This court faced the same question in **Lule Edward & Anor Vs Kiataka Henry Civil Revision Cause No. 001 of 2021** and in answering the question the court cited with approval the decision of Justice Stephen Musota (As he was then) in Pascal Juma Wasike V Alex Onyango Situbi (Supra) where he observed that; **“The general powers of supervision over Magistrates' Courts conferred upon the High Court by the Judicature Act may be exercised**




by the Chief Magistrate over Local Council Courts on behalf of the High Court.”

14. He added; **“The legislature carefully chose the word “may” not “shall” to delegate High Court powers of Supervision to the Chief Magistrate.** This means that Section 40 only delegated the High Court power of supervision to the Chief Magistrate. This did not amount to ouster of jurisdiction.”

15. I concur with the interpretation of Section 40 of the Local Council Courts in **Pascal Wasike Case (Supra) by Justice Stephen Musota (As he was then).**

16. In the premises, I find that the preliminary objection lacks merit and the same is dismissed with Costs in the cause.

I SO ORDER.



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NALUZZE AISHA BATALA

JUDGE

17th /01/2024