

**THE REPUBLIC OF UGANDA  
IN THE INDUSTRIAL COURT OF UGANDA HOLDEN AT KAMPALA  
MISC. APPL. NO. 227 OF 2018  
(ARISING FROM MA NO. 175/2018)**

**IMPERIAL ROYALE HOTEL.....APPLICANT**

**VERSUS**

**SHEILA OLILIA.....RESPONDENT**

**BEFORE**

1. The Hon. Chief Judge, Asaph Ruhinda Ntengye
2. The Hon. Judge, Linda Lillian Tumusiime Mugisha

**Panelists**

1. Mr. Rwomushana Reuben Jack
2. Ms. Rose Gidongo
3. Mr. Anthony Wanyama

**RULING**

This is an application by notice of Motion seeking an order to set aside the ruling of the Registrar of this court on a notice to show cause why execution should not issue in Misc. Appl. 175/2018.

According to the affidavit supporting the application, the ruling of the labour officer demanded that the parties reconcile the salary payment payable and that only if there was a balance payable would the applicant be obliged to pay. It is stated in the affidavit that after reconciliation of the salary amounts nothing was payable by the applicant yet the Registrar extracted an order for notice to show cause why execution for payment of 6,000,000/= should not issue, which was irregular since the respondent had already been paid the amount due.

The record shows an affidavit in reply to the effect that the application did not disclose sufficient grounds to set aside the orders of the Registrar the claimant having drawn a decree for 6,000,000/- which was executable by the Registrar.

By oral submission Mr. Mike for the applicant submitted that the order to pay 6,000,000/= was in error and should be set aside since earlier payments were not considered as shown in annexure “D” and “B”.

Mr. Kyobe for the respondent contended that there was a valid decree which the registrar ordered to be executed and that the respondent was trying to cause re hearing of the labour dispute. He argued that the registrar could not go to the merits of the case at the execution level of the dispute. Even then, counsel argued, the deduction in annexure “B” 2 about absenteeism was denied by the respondent.

We have perused carefully the decision of the labour officer and the gist of the decision is:

**“Section 43 of the Employment act 2006 provides for payment of wages for the workers. Its clear that for the 3 months the complainant worked, she was paid, she was being paid different amounts. It was the complainant’s evidence that she was being paid 2,000,000/=. This evidence was not disputed by the respondent. I form the opinion that any lawful deductions made by the respondent be as such and the balance be paid to the complainant. I therefore order that both the complainant and respondent reconcile the actual amounts paid to the complainant for the three months less the lawful deductions and the balance should be paid to the complainant.”**

The decree signed by the labour officer states:

**IT IS HEREBY ORDERED THAT:**

1. The termination of the complainant was lawful.
2. The complainant be paid salary arrears for 3 months equivalent to 6,000,000/= (six million Uganda shillings) less the lawful deductions within 7 days from the date of the ruling.....

We have no doubt, and we agree with the submission of counsel for the respondent, that the above decree is at variance with the decision of the labour officer. A decree can only be valid and therefore executable only if it is drawn in strict compliance with the decision of the court. The drafting of the above decree did not take into account the fact that the decision of the labour officer was that the respondent was to be paid the balance of the salary after lawful deductions. It is not in dispute that the respondent earned 2,000,000/= per month exclusive of deductions and therefore once the lawful deductions were taken into account, she would definitely receive less than 2,000,000/=. But the decree seemed to allow a total of 2,000,000/= per month for 3 months without deductions which was contrary to the decision. It seems to us that the decree was drafted by counsel for the respondent and put before the Labour officer for signature and the Labour officer signed it without perusing it to ascertain its alignment with his decision . Yet under **Order XX1 Rule 07** the successful party ought to draft the decree and submit it for approval to the other party. The decree having been at variance with the decision, it could not be executable and therefore both the notice to show cause and the decree from which it arose are null and void and are hereby set aside.

We have carefully perused **annexure D and B** to this application and we agree with the applicant that after reconciliation of the pay slip of the respondent there was hardly any balance payable to the respondent . We however agree with the respondent that there was no evidence to support a deduction for absence of the respondent who was paid a monthly salary not as a casual worker but as an employee on contract. Accordingly we order that she be paid 600,000shs, 133.000shs, and 200,000shs having been deducted for absenteeism for the months of June, July and August respectively. The application partly succeeds with no orders as to costs. The awarded sums shall attract an interest rate of 20% from the date of this ruling till payment in full.

**Signed by:**

1. The Hon. Chief Judge, Asaph Ruhinda Ntengye .....

2. The Hon. Judge, Linda Lillian Tumusiime Mugisha .....

**Panelist**

1.Mr. Rwomushana Reuben

2,MS.Rose Gidongo

3.Mr, Anthony Wanyama

DATED 21/03/2019