

**REPUBLIC OF UGANDA**  
**IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA**  
**LABOUR DISPUTE APPEAL No. 16 OF 2019**  
**[ARISING FROM KCCA/CEN/LC/092/2019)**

**BETWEEN**

**KCB BANK (U)**  
**LIMITED.....APPELLANT**

**VERSUS**

**KABAJULIZI**  
**ANUALRITE.....RESPONDENT**

**BEFORE**

1. Hon. Chief Judge Ruhinda Ntengye
2. Hon. Lady Justice Linda Tumusiime Mugisha

**PANELISTS**

1. Mr. Rwomushana Reuben Jack
2. Ms. Mugambwa Harriet Nganzi
3. Ms. Rose Gidongo

**RULING ON PRELIMINARY OBJECTION**

**Background**

The facts as enumerated by the labour officer are:

The respondent, Kabajulizi was an employee of KCB Bank (U) Ltd. On 18<sup>th</sup> of December 2017 she received a letter from the Human Resource Manager requiring an explanation about a certain transaction and following her explanation she was summoned to a disciplinary hearing after which

she was terminated. The labour officer decided in favor of the respondent and because the appellant was aggrieved by the decision it appealed to this court. On filing the appeal, the appellant was named as “KCB(U) BANK LIMITED”.

Before the appeal could be heard the respondent raised a preliminary objection that the **“appeal was filed by a non-existent party as there is no entity with the name “KCB (U)BANK Ltd.”**

The appellant was represented by Mr. Godfrey Himbaza while the respondent was represented by Mr. Nuwandinda Jonan Rwambuka both of M. OSH Advocates & Legal Consultants and M/s. Rwambuka & Co. Advocates respectively.

It was argued strongly by the respondent that an entity called **KCB (U) Ltd**” was not registered by the Registrar General and therefore it did not exist in law and could not sue or be sued. The respondent relied on a letter from the Registrar General and the case of **Wasswa Primo Vs Moulders (U) Limited M.A. 685/2017.**

The appellant argued strongly that the issue of names was a misnomer that could be cured by court especially when the original claim before the labour officer was in the same names as registered with the Registrar General. The appellant relied on the case of **Kilembe Mines (U) Ltd Vs Uganda Gold Mines Ltd M.A. 312/2012.**

We have perused and internalized both authorities relied upon by both counsel. The effect of the case of **Wasswa Primo** is that a suit filed by a non-existent person is not a suit filed in court since a non-existent person cannot sue or be sued.

The effect of the case of **Kilembe Mines** is that a misnomer being a mistake in naming a person, place or thing in a legal instrument can be corrected by amendment and that since none of such cases involve misnaming the defendant, amendment would ordinarily be made under **Order 1 rule 10 of CPR.**

The case of **Kilembe Mines** was relied upon by Hon. Justice Henry Peter Adonyo in the case of **Charles Van Der Pierre Vs Pinnacle Security Services Ltd./SPC Protectorate & Anor – Civil Suit 599/2013 – Commercial Division.**

In the instant case the proceedings in the labour office show that the complainant brought the complaint against **KCB Bank (U) Ltd** and yet the decree extracted by the same labour officer bore the names of “**KCB(U) Bank Ltd.**” It is interesting to note that in the second paragraph of the decree the respondent is named KCB BANK(U) LIMITED

It can clearly be seen that that the Labour officer is the one who made a mistake by naming the appellant “**KCB(U)Bank Ltd**” while extracting the decree Instead of “**KCB Bank (U) Limited**”, the registered name of the appellant as shown by the respondent in the letter from the Registrar General, R3. Even then the misnaming was in the Head Title and not in the body of the decree. In our view the Appeal having been registered in the name that the decree prescribed in the Head Title, the mistake of the labour officer (or even of Court), could not invalidate the Appeal Consequently, we consider the mistake as a misnomer within the precincts of the authorities of **Kilembe Mines Limited Vs Uganda Gold Mines Ltd (supra) and Charles Van Der Perre Vs Pinnacle security Services (supra)** and we therefore overrule the preliminary objection.

**DELIVERED & SIGNED BY:**

1. Hon. Chief Judge Ruhinda Ntengye .....
2. Hon. Lady Justice Linda Tumusiime Mugisha .....

**PANELISTS**

1. Mr. Rwomushana Reuben Jack .....
2. Ms. Mugambwa Harriet Nganzi .....
3. Ms. Rose Gidongo .....

Dated: 22/01/2021