

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA CENTRAL CIRCUIT AT NAKAWA
MISCELLANEOUS APPLICATION NO 83 OF 2005
(ARISING FROM CS NO. 004/2005)

RUKOOGUE ENTERPRISES LTD.....PLAINTIFF

VERSUS

ENGINEER MUHWEZI T/A

EMTEC CONSTRUCTION SERVICE..... DEFENDANT

ASSOCIATED CONSTRUCTION AND

ENGINEERING SERVICES LTD..... RESPONDENT

BAGUMA CRESCENT RUSOKE:APPLICANT

BEFORE HON. JUSTICE GIDEON TINYINONDI:

RULING:

This file was allocated to me on 14/02/2005. The Plaintiff obtained judgment under summary procedure in HCCS No. 004/05: RUKOOGUE ENTERPRISES LTD VS. ENGINEER MUHWEZI t/a EMTEC CONSTRUCTION SERVICE. A warrant of attachment for the judgment debt of Shs. 21,500,000/= issued forthwith. Several properties including “The Defendant’s wheel loader 930 CAT” were to be attached and sold by public auction 14 days after notice of sale had been advertised if the Defendant had not satisfied the judgment debt by then.

According to the letter dated 01/03/2005 by KOSH AUCTIONEERS & COURT BAILIFFS to the Deputy Registrar Nakawa High Court. The advert came out on 17/02/2005. Before the sale could take place court issued an interim order to last 30 days. At the expiration of the order the Bailiffs asked for renewal of the warrant. The first interim order of 28/02/2005 to last up to 7/04/2005 was extended to 15/04/2005.

According to the Bailiffs’ letter of 18/04/2005 to the Deputy Registrar the wheel loader (and other properties) was sold, by private treaty on 15/04/2005.

On 21/03/2005 Miscellaneous Application No. 65/05 RUKOOGE ENTERPRISES LTD VS. ENGINEER MUHWEZI t/a EMTEC CONSTRUCTION SERVICE – DEFENDANT

AND

ASSOCIATED CONSTRUCTION AND ENGINEERING SERVICES LTD – OBJECTOR/APPLICANT was filed seeking an order that “Engineering plant caterpillar – 930 wheel loader Registration No. UXJ 039 be released from attachment”. On 10/05/2005 this application was dismissed for want of prosecution.

On 28/04/2005 Miscellaneous Application No. 83/05: RUKOOGE ENTERPRISES LTD VS. ENGINEER MUHWEZI t/a EMTEC CONSTRUCTION SERVICE – (DEFENDANT), ASSOCIATED CONSTRUCTION AND ENGINEERING SERVICES LTD (RESPONDENT) AND BAGUMA CRESENT RUSOKE (APPLICANT) was filed. In this application Baguma Crescent Rusoke the Applicant sought orders, inter alia that:

- “a). The engineering plant caterpillar 930 wheel loader Registration No. UXJ 039 in possession of police on complaint by the Applicant be released.”

The said Baguma Crescent Rusoke swore an affidavit in support, to state:

- “1. That I am an adult male Ugandan of sound mind.
2. That I am a Managing Director of BCR General Ltd. a company incorporated and carrying on construction business in Uganda.
3. That on the 17th day of February 2005 an advertisement was made in the New Vision news paper advertising for sale a wheel loader by virtue of a warrant of attachment in Civil Suit No. 004/2005 in the High Court of Uganda at Nakawa. For ease of reference find hereto attached a copy of the said newspaper marked Annexure “A”.
4. That after the 14 days I bided and bought the said machine and for ease of reference find hereto attached the Memorandum of sale / sale agreement issued to me by KUSH Court Auctioneers and Bailiffs marked Annexure “B₁”. Also hereto attached is a Warrant of Attachment marked Annexure B₂.

5. That on payment of the said Shs. 17,000,000/= (Seventeen Million only). I was issued a receipt by the said Auctioneers a copy of which is hereto attached and marked Annexure "C".
6. That after the sale the said Auctioneers made a return to Court per the copy of the return hereto attached and marked C₁.
7. That after paying for the said wheel loader I parked it at my workshop at Wankonko.
8. That on the 20th day of April 2005 armed men invaded my workshop and took the said wheel loader and we reported a police case at Jinja Road Police Station for malicious damages to property and theft of the said machine per SD 50/20/04/05.
9. That the said wheel loader is now parked at Jinja Police station and at the time of reporting the case no one had a claim on the said wheel loader per the police records.
10. That we have requested for the police authorities to have the said wheel loader released but the Office in Charge Jinja Road referred us to the Regional Police Commander Mr. Oyo Nyeko.
11. When I appeared before Nyeko he said that at the time of sale there was a pending objector application No. 65/2005 arising from HCCS No. 4/2005 and as such the sale was improper.
12. That at the time of sale I was not aware of the said objector application Miscellaneous Application 65/2005. The said application from the Regional Police Commander is hereto attached and marked Annexure "D".
13. That the said obstruction is occasional by the judgment debtor who is also the Director in the Respondent company and without just cause.
14. That I have conducted a search in the company Registry and found that the objectors are the very judgment debtors trading under the different company names and even if the said objector was to be heard it cannot succeed. For case of reference find hereto attached a copy of the

memorandum and Articles together with the certificate of incorporation marked Annexure "E".

15. That I have been advised by my lawyers M/S Bitaguma & Co. Advocates and verily believe their advice to be true that I am a Bonafide purchaser of the said wheel loader and the police's continued attachment of the said machine sold as a result of court order is contemptuous.
16. That no further court order was relied on to attaché the said wheel loader from my workshop.
17. That I depone this affidavit in support of an application to have the said wheel loader released by police to me as the rightful / lawful owner of the said wheel loader and should the Respondent further obstruct my possession I pray that he be detained in Civil prison."

On behalf of the Respondent one Gorrette Kyamazima in an affidavit in reply, deponed as follows: -

- "1. THAT I am an adult female Ugandan of sound mind, a Director and shareholder in M/S Associated Construction & Engineering Services Ltd. a Limited Liability Company duly incorporated in Uganda and the Respondent in the suit herein. I am authorized by the company to represent it and it is on whose behalf that I swear this affidavit.
2. THAT I have read and understood the affidavit of Baguma Crescent Rusoke the Applicant, in support of the Application and in this affidavit I reply to it.
3. THAT M/S Associated Construction & Engineering Services Ltd (hereafter referred to as "the company") bought the caterpillar, wheel loader Reg. No. UXJ 039 on 17/04/2002 from M/S MEC International Ltd of P. O. Box 21347 Kampala. The sale agreement was made by Odere & Nalyanya Advocates and solicitors as per Annexure "A" hereto.
4. THAT after purchase the company modernized its efficiency by having it repaired of any defect to put it to efficient construction services/operations which the company does in the whole of Uganda.
5. THAT the caterpillar started operating for the company and in March 2003 the company rented it out to M/S EMTEC Construction Services Ltd. a

Limited Liability Company duly incorporated in Uganda and also doing construction work and M/S Associated Construction & Engineering Services Ltd and M/S Emtec Construction Services are closely related legal persons with (some) common Directors. The companies offices are at Bugolobi, Kampala.

6. THAT on 5/03/2005 I was surprised to learn from the Monitor Newspaper (photocopy hereto attached as Annexure "B" that, among others, the caterpillar had been attached and was subject of execution proceedings against Engineer Muhwezi, T/A Emtec Construction Service.
7. THAT I know Engineer Muhwezi and is a Director and shareholder in both Emtec Construction Services Ltd and Associated Construction & Engineering Services Ltd. M/S Emtec Construction Services Ltd. has no business name known as EMTEC CONSTRUCTION SERVICE and as the Director of M/S Associated Construction Engineering Services Ltd. and M/S Emtec Construction Services Ltd I am not aware of Engineer Muhwezi Trading as EMTEC CONSTRUCTION SERVICE. That I do not know that business. That Engineer Muhwezi was mostly in the management of the caterpillar on behalf of M/S Emtec Construction Services Ltd and he is also a Director and shareholder in both companies. That the hire/co-operation status in respect of the caterpillar between M/S Associated Construction & Engineering Services Ltd and M/S Emtec Construction Services Ltd was on an oral/mutual arrangement.
8. THAT after I learnt of the intended sale of the caterpillar in execution of a Decree in a case against ENGINEER MUHWEZI T/A EMTEC CONSTRUCTION SERVICE, I for and on behalf of the company filed an objector Application No. 65 of 2005 contending that the caterpillar did not belong to Eng. Muhwezi T/A Emtec Construction Service but to the company and was not supposed to be attached in a suit against Eng. Muhwezi as a person.
9. THAT I later learnt from Eng. Muhwezi that he was challenging the decree and the execution by sale of all the properties attached, including the

caterpillar Eng. Muhwezi secured from this honourable court an Interim order to stay the sale of the properties until his application for setting aside the decree and execution was heard. (The order is annexed hereto as “C” dated 25/02/2005 to last for 30 days (which would end on or around 27/03/2005).

10. THAT I later learnt from Eng. Muhwezi that when the aforestated Interim order expired, it was renewed on 7/04/2005 to expire on 15/04/2005. Annexure “D” is attached. The caterpillar had not been sold.
11. THAT I further learnt from Eng. Muhwezi that the extended order was served on the Court Bailiff in charge of execution on 11/04/2005 as per Annexure “E” that is on court record.
12. THAT on 15/04/2005 at 4.00 p.m. I was shocked upon being informed by Eng. Muhwezi that the caterpillar and his personal Pajero had been sold and that he had not learnt of the names of the purchasers yet.
13. THAT later I, with the assistance of the company’s lawyers M/S Tashobya, Byarugaba & Co Advocates perused the court record to find out what happened concerning civil suit No. 004 of 2005.
14. THAT on court record we found there a letter dated 1/03/2005 and filed in this honourable court on 3/04/2005 by Kosh Auctioneers & Court Bailiffs explaining to court that the Public Advertisement came out prayed to this honourable court to renew the warrant of execution. (The RED PEPPER advertisement is attached as Annexure “G”). The 1st warrant is hereto attached as “H”. It is not attached to the Applicant’s affidavit, and stated:

“...To: *Kuboba Henry,*

Court Bailiff

WHEREAS Engineer Muhwezi (herein after referred to as the judgment debtor) was ordered by Decree of this court passed on the(date not mentioned) in the above suit to pay the defendant the sum of Ug. Shs. 21,500,000/=on of such amount has not been paid and remains owing on account of the said decree together with the sum of Shs. 21,500,000/= as costs of the suit. These are to command you to

attaché the movable property of the said defendant as set forth in the schedule on the reverse hereof and which shall be appointed out to you by the said defendant and unless the said judgment debtor shall pay to you the said sum of Shs. (Not mentioned) only and further interest aforesaid and your fees for the attachment to sell by public auction. YOU ARE HEREBY COMMANDED to return this warrant on or before the 14th day of March (year not mentioned) certifying the manner in which has been executed or the reason why it has not been executed....

NOTIFICATION

The terms of sale are set out in the High Court circular No..... (Number not mentioned) dated ... (date not mentioned) issued to all Court Brokers. The public notice and advertisementby way of attachment of the Defendant's property old motor-vehicle UAE 259C.....Wheel Loader 930 cat. D. ASSISTANT REGISTRAR.”

15. THAT my reading of Ann. “H” stated that “....the public notice and advertisement shall be in the form and manner set out in the above circular...” The properties attached, including the wheel loader did not appear on the reverse side of the order. The wheel loader was not on the reverse but on that page of the order. The wheel loader was not on the reverse but on that page of the order (attached warrant). The attachment warrant ordered the court bailiff to attach the Defendant's properties showed to him by the DEFENDANT.

And Engineer Muhwezi has informed me that the court bailiff never appeared before him or consulted him to find out which properties were his and should be attached and that the wheel loader (with others) were attached on the day when he was out of Kampala, to Mbarara and has further informed me that he could not show the bailiff the wheel loader for it was not his.

16. THAT from the court record and with the assistance of the company's lawyers I perused a warrant of execution dated 4.04.2005 (here to attached as Annexure "I") I studied it and discovered that the wheel loader 930 was mentioned therein and my reading of it, it stated and, I quote "...To. Kuloba Henry

The Bailiff of the Court

WHEREAS Engineer Muhwezi (herein after referred to as the judgment Debtor)" was ordered by decree of this court passed on the 14th day of February 2005 to pay plaintiff sum of Shs. Ug. 21,500,000/=.....whereas the sum of Shs. 21,500,000/= of such amount has not been paid and remains owing of the said decree together with the sum of Shs. 21,500,000/= on account of interest on the decretal amount up to the(Not stated) 2005 making all the sum of Ug. Shs. (Not stated)of account of costs of the suit making all the amount at the rate of six per centum per annum up to the date of payment, YOU ARE TO COMMANDED to attach the movable property of the said defendant...., to sell by public auction. The sale here by ordered shall not take place before 14 days from the date of which notice for sale has been advertised.... The public notice and advertisement shall be in the form and manner set out in the above circular...."

17. THAT with the assistance of the company's lawyers aforementioned I got from the court record a return (letter) to this honourable court by Henry Kuloba of Kosh Auctioneers & Court Bailiffs dated 18.04.2005 and filed on 19/04/2005 (attached here to as Annexure "J" and attached to the Applicant's affidavit as Annexure "C") stating:

".....Warrant of attachment dated 4th day of April 2005 issued to us To sale by private treaty: Since the first warrant had expired without auctioning the property We managed to sale of by private treaty the wheel loader 930 CATAT Uganda Shillings 17,000,000.....The sale took place on the 15th day of April 2005 by private treaty....."

18. THAT I wondered why the Court Bailiffs had reported to court that he had sold the caterpillar by private treaty when the warrant had mentioned of public auction and the company's lawyers aforementioned informed me and I believe them to be true that the sale was illegal, invalid and not a sale at all in law in execution and that it could be challenged in this honourable court.
19. THAT later I learnt from Eng. Muhwezi that he, Trading as EMTEC CONSTRUCTION SERVICE instituted proceedings challenging the sale of the properties attached in respect of the suit against him as the Defendant and contending that the sale of the properties is illegal and null and void and that the caterpillar cannot be released to anybody for it is at Jinja Police Station, before the hearing and determination of his proceedings as per the order hereto annexed as "K". I have also learnt from Engineer Muhwezi that his proceedings are still pending in this court.
20. THAT I have perused the Application in issue herein and the company does not know ROKOGE ENTERPRISES LTD the plaintiff mentioned in the Application, and on my perusal of the court record to understand what took place, with the assistance of the company's lawyers, I found out that there is a plaint vide civil suit No. 004 of 2005 filed on 3/01/2005 the parties therein being RUKOGE ENTERPRISES LTD VERSUS ENGINEER MUHWEZI T/A EMTEC CONSTRUCTION SERVICE (Annexure "L" is attached).
21. THAT I further learnt from the court record that a Decree in the suit was acquired on 14/02/2005 against Engineer Muhwezi T/A & Emtec Construction Service Decree was for Shs. 21,500,000/= and costs of the suit but the company is not party to it, and I have realized that the plaintiff named in the suit is not the plaintiff named in this Application. (A photocopy of the Decree is annexed as "LI").
22. THAT the affidavit of BAGUMA CRESCENT RUSOKE in support of the Chamber summons is completely false.

23. THAT in particular response to his paragraph 3 that an Advertisement was made in the New Vision Newspaper advertising for the sale of a wheel loader by virtue of a warrant of attachment in civil suit No. 004 of 2005 in the High Court of Uganda at Nakawa, it is not true. The advertisement has never been made in the New Vision.
24. THAT in response to paragraph 4 of his affidavit I state as follows: -
- (a). that it is false for him to answer that he bided for the buying of the machine after the advertisement of 17/02/2005 and bought it after 14 days of the advertisement and the warrant of attachment annexed on his affidavit as “B2” which he contends is the one whose advertisement he read in the New Vision on 17/02/2005 is dated “the 4th day of April, 2005”. His Annexure “B2” is quoted and is hereto annexed as Annexure “M”.
 - (b). that it is false that he bided and bought the machine (the caterpillar) after 14 days (after the advertisement) as his Annexure “B1” (the agreement of sale) (hereto annexed as Annexure “N” is dated 15/04/2005) (and advertisement not in the New Vision).
 - (c). that as per my averment in paragraph 14 the first warrant issued by this honourable court was dated 14/02/2005 advertised on 17/02/2005 in the Red Pepper (Annexure “G” & “H”) and as per my paragraph 14 and 1st warrant expired before execution and the court bailiff applied for renewal of the warrant to sale the property including the caterpillar on 1/03/2005 (Annexure “f”) and the same was issued on 4/04/2005 (Annexure “I”) to be advertised, which was not advertised, and the Applicant never bought the caterpillar after the due warrant of execution he allegedly read on 17/02/2005.
25. THAT I am informed by the company’s lawyers M/S Tashobya, Byarugaba & Co Advocates and I believe them to be true that the Applicant is fraudulently deceitful. The purchase was illegal and/or

negligent. That it cannot stand against Engineer Muhwezi, the Defendant.

26. THAT the company is strongly interested in the caterpillar for it was its own property under the management of Engineer Muhwezi on behalf of Emtec Construction Services Ltd and Associated, Construction & Engineering Services Ltd to which I am a Director and shareholder. We are not party to the suit.
27. THAT the company was not involved in the allegations of the Applicant in his paragraphs 7 – 11 against and/or involving the police of Uganda and in response to his paragraph 12 I state that the company's objector application (which has been overtaken by events) (Annexure "D" thereto) and Annexure "O" hereto is on court record in this honourable court.
28. THAT the company (M/S Associated Construction & Engineering Services Ltd.) does not understand why it was sued in this application, and is not accused of doing anything in conjunction with the REGIONAL POLICE COMMANDER against the Applicant.
29. THAT in paragraph 13 of his affidavit the Applicant contends that the obstruction is occasioned by the judgment debtor (Eng. Muhwezi T/A Emtec Construction Service) who is also Director in the Respondent company (the company) but the company has not obstructed him in anything and the company's lawyers aforesaid have informed me and I believe their information to be true that the company is a legal person, independent from Engineer Muhwezi T/A Emtec Construction Service and a Natural person, and that although he is a Director and shareholder in the company (Associated Construction & Engineering Services Ltd.) his personal actions cannot be visited on the company to be sued as in the Application herein.
30. THAT in answer to paragraph 14 of the Applicant's affidavit I state that the company filed an objector application as aforesaid and is not among the judgment debtors trading under the different company names. I state that the company does not trade under a different company name or any at all;

and on the contention that if the objector was to be heard it cannot succeed, I state that the company is not a Judge and justice to it would be sought in this honourable court and that was why it had filed an objector application, and I agree that Annexure “E” to his affidavit hereto attached as Annexure “P” is true of the particulars of the company whom my lawyers aforesaid and I believe them to be true, have informed me that it is an independent legal person from Engineer Muhwezi T/A Emtec Construction Service.

31. THAT in response to the Applicant’s affidavit in paragraph 15 the company’s lawyers aforesaid. M/S Tashobya, Byarugaba & Company Advocates have informed me and I believe their information to be true that if the Applicant’s lawyers M/S Bitaguma & Company Advocates advised him that he is a bonafide purchaser; the lawyers misadvised him.
32. THAT in further response to the applicant’s affidavit (paragraph 15) that his lawyers have advised him that the continued attachment by police of the said machine (wheel loader) as a result of a court order is contemptuous, I state that the company does not control the police and does not advise them and I am in respect of that averment advised by the company’s lawyers aforesaid and I believe their advise to be true that if the Applicant is aggrieved by the action (s) of the police, he should commence an action against the Attorney General of Uganda and not the company.
33. THAT I am informed by the company’s lawyers M/S Tashobya, Byarugaba & Company Advocates and I believe their information to be true that the application herein is vexatious, and misconceived and without any merit as 0.19rr 84 (1) (2) of the CPR concern obstruction to the judgment creditor to take possession of immovable property. Or to the person who has purchased such property it is in my knowledge that the caterpillar in issue is a movable property and the company is not an obstructer and the Applicant is not a judgment – creditor and the judgment – creditor in civil suit No. 004 of 2005 is RUKOOGE ENTERPRISES LTD, and I am further informed by the company’s lawyers that R.85 CPR still concerns

immovable property but that if it concerns any property the company has not instigated anybody to take possession of the caterpillar and that it cannot be detained in a civil prison. The company had only filed an objector application to seek justice.

34. THAT again, I aver as per my paragraph 19 herein, (Annexure “K”) that there is a court order attaching the property and ordering it to remain at the police station until the proceedings by Engineer Muhwezi T/A Emtec Construction Service heard are and disposal of Engineer Muhwezi T/A Emtec construction service is not a party to this Application and as stated before his proceeding(s) are not yet disposal of. The company knows EMTEC CNSTRUCTION SERVICES LTD as per Annexure “Q”.

35. THAT what is herein stated is true to the best of my knowledge save paragraph 25, part of paragraph 15, 29, part of paragraph, 30, part of paragraph, 31 part of paragraph 32 and part of paragraph, 33 based on information and/or advice from the company’s lawyers M/S Tashobya, Byarugaba & Company Advocates.”

At the hearing of this application Counsel for the Respondent raised three preliminary objections. He went to great length to argue these. Equally lengthy arguments in reply were made by Counsel for the Applicants. In my view both Counsel engaged in an exercise in futility.

It took me a lot of time to peruse the whole court record. The main suit is titled:

“HCCS. NO 004/05 RUKOOGE ENTERPRISES LTD

VS

ENGINEER MUHWEZI T/A

EMTEC CONSTRUCTION SERVICES.”

This suit arises out of a sale and purchase agreement, [“Annexure A” to the plaint refers]. For clarity a certified photocopy thereof is reproduced here below:

THE REPUBLIC OF UGANDA

IN THE MATTER OF THE CONTRACT ACT CAP 73 LAWS OF UGANDA

AND

IN THE MATTER OF THE TRAFFIC AND ROAD SAFETY ACT 1998 LAWS OF UGANDA

AND

IN THE MATTER OF A SAVE AGREEMENT FOR AN ENGINEERING PLANT

SALE AGREEMENT

This agreement is made this 4th day of August 2004 between RUKOOGE ENTERPRISES (U) LTD. of P. O. Box 456 Lira Municipality Lira and on behalf thereof the Managing Director Mr. Julius Mugisa hereto acts (Hereafter called “the Vendor” on first part).

AND

Engineer Muhwezi of EMTEC CONSTRUCTION SERVICES LTD, P. O. Box 34176 Kampala (Hereinafter called “The Purchaser” on the second part.

WHEREFORE Both parties hereinafter do agree and witness as hereunder: -

1. That this is an agreement for a sale of an Engineering Plant registration number 153 UCJ.

LEGAL OWNERSHIP

2. That the Vendor is the legal owner of the said Engineering Plant by the legal fact that the said Vendor bought it from the Registered Proprietor in the names of ASSIST (U) LTD.
12. That this agreement has been made when all parties are of sound mind and without undue influence whatsoever.

IN WITNESS THERETO both parties hereto attest and witness these presents as hereunder:

Signed by the said
Julius Mugisa M. D.
For Rukooge Enterprises Ltd.

VENDOR

In the presence of

WITNESS

Signed by the said
Engineer Muhwezi T/A
EMTEC CONSTRUCTION SERVICES LTD.

PURCHASER

DRAWN & FILED BY:

*M/S KANYUNYUZI & CO. ADVOCATES,
PLOT 35/37 NKRUMAH ROAD,
P. O. BOX 1073,
KAMPALA*

To cut the long story short, as they say, there followed:

- a). a summons in Summary Suit dated 03/01/05 bearing the same title of the plaint.
- b). affidavit of service by Evary Mujambere sworn on 10/02/2005. When one peruses paragraphs 10 to 14 of the same one notices that the affidavit is so defective that it amounts to no service at all.
- c). the decree dated 14/02/2005.
- d). the application for execution dated 10/02/2005.
- e). the warrant of attachment and sale of movable property directed to the court bailiff dated 14/02/2005.
- f). the notice of sale in the “Red Pepper” issue of 17/02/2005.
- g). the return by the court bailiff dated 1/03/2005.

h). the notice of motion for an interim injunction dated 28/02/2005 in Miscellaneous Application 45/05.

This application was not effectively served either on Counsel for the Plaintiff or the Court bailiff {See the defective affidavit of service by Rowland Mugisha}.

To compound the mess on this file a whopping eight (8) applications were born of this main suit {HCCS. No. 004/05}.

They are:

- 1). Miscellaneous Application No. 42/05
- 2). Miscellaneous Application No. 43/05
- 3). Miscellaneous Application No. 44/05
- 4). Miscellaneous Application No. 45/05
- 5). Miscellaneous Application No. 65/05
- 6). Miscellaneous Application No. 82/05
- 7). Miscellaneous Application No. 83/05

and

- 8). Miscellaneous Application No. 72/06

I do not know how many more applications have been filed since Miscellaneous Application No. 72/06 was filed!!

I conclude as follows.

Whereas “EMTEC CONSTRUCTION SERVICES LTD” was inserted in the said Sale and Purchase Agreement of 14/05/04 and endorsed upon signature thus making the company the purchaser or one of the purchasers of the engineering plant registration no. 153 UCJ this particular suit ought to have had the company as a party. Short of that there is not, in law, a Defendant in the main “Suit”. I hereby strike out the plaint. Thereby all the steps and applications under it are hereby declared nullities. Each party in the “Suit” and applications shall bear their own costs because none of them acted with diligence.

Sgd: Gideon Tinyinondi

JUDGE

6/06/2006

06/06/2006:

Mr. Byarugaba for Respondent

No appearance for Applicant

Ms. Kauma Court Clerk.

Mr Byarugaba:

I spoke to Mr. Bitaguma Counsel for Applicant. He was traveling to Mukono. He told me to receive the ruling and later communicate to him.

Sgd: Gideon Tinyinondi

JUDGE

06/06/2006.

COURT:

Ruling delivered in open court at 9.35 a.m.

Sgd: Gideon Tinyinondi

JUDGE

06/06/2006.