

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
HOLDEN AT MBALE**

**HCT-04-CV-CR-0003-2011
(Arising from Sironko CV-LC-001/2008)
(From Mbale CV-LC-0052/2008)**

WAMAYEYE WILLINGTON.....APPLICANT

VERSUS

DR. J.K. MASAMBU.....RESPONDENT

BEFORE: THE HON. JUSTICE STEPHEN MUSOTA

REVISION ORDER

This application arises out of a suit filed by **Dr. Masambu** in person against **Wamayeye Willington** represented by M/s Dagara & Co. Advocates in Sironko Magistrate's court claiming for:

- (i) A permanent injunction.
- (ii) Mesne profits.
- (iii) General damages for trespass.
- (iv) Consequential financial loss.
- (v) Interest and
- (vi) Costs of the suit.

In his final prayer, the plaintiff now respondent quantified the claim for mesne profits as shs.45,682,000/= and consequential financial loss as 320000/=. He claimed interest of 35% per annum on mesne profits and financial loss and 25% per annum on general damages.

When the defendant failed to file a defence and upon application by the plaintiff, the learned trial Magistrate entered judgment for the plaintiff “for the claim prayed for.”

The matter was placed before me for a possible Revision Order.

During the hearing of this matter, both **Dr. Masambu** in person and **Mr. Dagira** for the applicant submitted in support of their respective cases.

I have considered this application as a whole and the law applicable. I have taken into account the respective submissions. I perused meticulously the entire lower court’s record. I am in total agreement with the submission by **Mr. Dagira** learned counsel for the applicant.

The learned trial magistrate presiding over a Grade I Court had no jurisdiction to enter a default judgment in excess of the court’s pecuniary jurisdiction. The claim for mesne profits quantified as shs.45,682,000 plus a financial loss of 320000/= was a claim far beyond the jurisdiction of a court presided over by a Magistrate Grade I. He acted contrary to S.207 (1) (b) of the MCA which limits the pecuniary jurisdiction of a Magistrate Grade I to shs.20,000,000/= only. It is apparent that the default judgment was entered under O.9 r.6 or 8 CPR. These rules talk about liquidated demands yet a claim involving an injunction or mesne profits and general damages cannot be considered to be a liquidated demand.

Therefore when the trial magistrate entered the default judgment he had no jurisdiction to do so and did it with material irregularity. This court cannot allow such an order to stand since the learned Magistrate Grade I acted without jurisdiction. It is trite law that where a court acts without jurisdiction its orders are null and void *ab initio*. It is contrary to the law and an abuse of the process of court.

Consequently, I will set aside the judgment and illegal orders of the trial magistrate and refer the suit back to the lower court for a fresh trial.

Costs will be in the cause.

Stephen Musota

JUDGE

16.05.2012