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## IN THE HIGH COURT OF UGANDA HOLDEN AT JINJA

## MISC. APPLICATION NO.23 OF 1992

VERSUS

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LALEX BEMBE

JOHN ODWORI

AUTO OCHWO T.

VICENT EPUSI

C. MUDAWE

ALEX ONYANGO

### BEFORE: - THE HON. MR. JUSTICE C.M. KATO Date to the second secon

# involving the ease people, I or I N.G. R. Utl. I N.G. of the division of the control of the cont

This is an application by the applicant Angel Sewamala. The application is by notice of motion dated 26/11/92. It is supported by two affidavits one sworn by Mukasa the applicant's counsel dated 30/9/93 and another one sworn by one Serwanga dated 17/11/92. By this application the applicant is asking this court to review or set aside the order of the chief magistrate which granted stay of execution.

I take their word to be true, it is to a appear is bending

Review of Orders is governed by Order 42 of Civil Procedure Rules. By Provisions of Order 42 rules 2 and 4 of Civil Procedure Rules, an application for review must be presented to the judge who granted the order or decree which is the subject of the review. In the present case I did not make the order which is the subject of this application. I am not sure of the reasons which stopped the applicant from appealing against the decision of the chief magistrate or why the matter was not passed to this court for revisional order instead of a review.

I observe that this notice of motion does not comply with Provisions of Order 48 rule 3 of Civil Procedure Rules which require a notice of motion to state general grounds of the application. In this application no ground of the application was stated in the notice of motion, that was a serious omission which rendered the application incurably defective.

Order 39 rule 4(4) of Civil Procedure Rules under which this application was brought does not deal with setting aside or review of orders made by District Registrars relating to stay of execution.

On those three grounds I must, with due respect, agree with Mr. Mutyabule's contention that this application is misconceived and it cannot succeed. In these circumstances the application is dismissed with costs to the respondents.

Both counsel have informed me that there is an appeal pending between the same parties and the two counsel requested me to make an order for an early hearing of that appeal. I take their word to be true, in that an appeal is pending involving the same people. I order that the appeal be fixed for hearing as soon as possible in case it is ready for such hearing. So I order.

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Review of Orders is governed by Order 12 of Civil Procedure

Rules. By Provisions of Order 42 rules 2 and 4 of Civil Procedure Rules. an application for review. M. A most its rate of 56/01/21 dge

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C.M. KATO
JUDGE
12/10/93