

overruled the Preliminary Objection and set down the Suit for hearing on 18th September, 2013.

Mr. Waniale depones that on the 18th September 2013, he brought to the attention of Court a High Court Ruling delivered on 15th August 2013, in **Civil Revision No. 1 of 2013 Concern Worldwide vs. Mukasa Kugonza**, where Court held that the Magistrate Courts did not have jurisdiction to hear Employment matters. Nonetheless the learned Trial Magistrate while registering Court's duty not to condone illegalities, she advised that the file be moved to High Court for further directions on the basis that she was *functus officio*. He asked that Court maintains the position of the law that the Trial Magistrate Court did not have jurisdiction to try the case. That it is in the interests of justice that the Application be granted.

The Respondent did not file a Reply neither did he or his lawyer appears at the hearing on the 22nd October 2014 when the Application was scheduled for hearing. However Mr. Waniale Allan, the Applicant's Counsel brought to the attention of the Court the Affidavit of Service sworn by Kikomoko John. He, therefore, requested Court to proceed Ex parte under **Order 9, r. 20 of the CPR**.

I have noticed that M/s. Kibirige & Co. Advocates, the firm of Advocates representing the Respondents was duly served with the Application. According to the Affidavit of Service dated 17th October, 2014, sworn by one Kikomoko John, a Process Server, it is deponed that he received the Hearing Notice from Court on the 8th October, 2014 and on the same day he proceeded to M/s Kibirige & Co. Advocates with the purpose of serving the same. At the Chambers, he met Counsel Kibirige, who was known to him and he served him with the Hearing Notice. Counsel acknowledged receipt of the same, a copy of which was returned to Court.

Therefore, pursuant to **Order 9, r. 20 of the CPR**, I allowed the matter to proceed *Ex parte*. **Order 9, rule 20(1)(a) of the Civil Procedure Rules** stipulates that Court may use its discretion to proceed *ex parte* where the Plaintiff appears and the Defendant does not appear when the suit is called for hearing, if Court is satisfied that the summons or notice of hearing was duly served.

Submissions

In his submissions, Mr. Waniale states that the Employment Act sets down the procedure under which Employment disputes are to be lodged. This is handled by the District Labour Offices and not before a Magistrate Court. He referred Court to the case of **Concern Worldwide vs. Mukasa Kugonza, Civil Revision No. 1 of 2013** for the proposition that Magistrates Courts have no jurisdiction to entertain Employment matters. In his closing submissions, Counsel for the Applicant submitted that the Application be granted, that the Ruling of the Trial Magistrate be set aside and that the case be set aside.

Resolution

Having considered the evidence in form of an Affidavit, the arguments, the cited law and authorities, it is my opinion that this is a case which merits revision of the Orders of the learned Trial Magistrate in **Civil Suit No. 1135 of 2010**.

I have taken note of the fact that **Civil Suit No. 1135 of 2010**, the Plaintiffs/Respondents claim against the Applicant herein is, among others, for General Damages, and Costs of the suit arising out of breach of the Contract; unlawful arrest; false imprisonment and malicious prosecution unlawfully initiated upon the Plaintiffs by the Defendant.

It should, however, be noted that the facts that gave rise to the Respondent's claim in the main suit arise out of an alleged Employment relationship with the Applicant Company. Briefly, in the year 2007, the Applicant herein, in breach of the Employment contract, unlawfully dismissed the Respondents from Employment without the requisite notice. Furthermore, that the Applicant made its act worse by framing the Respondents with false accusations which finally resulted into their arrest, detention and subsequent prosecution. Hence, without a doubt, in considering this matter, the Court will be called upon to determine whether the arrest and subsequent Prosecution of the Respondents was in order. The Court will of essence have regard to the above background of employment.

Hence premised on the above observation, I do not hesitate to agree with Mr. Waniala's submission that the Magistrate Courts have no jurisdiction to entertain employment issues. Section 93 of the Employment, 2006 clearly provides for the Jurisdiction to handle Employment disputes upon Labour officers. (See the case of ***Former Employees of G4S Security Services Uganda Ltd. vs. G4S Security Services Uganda Ltd, Supreme Court Civil Appeal No. 18 of 2010***).

This Court is mandated under **Section 83 of the Civil Procedure Act** call for the record of any case which has been determined by any Magistrate's Court. If that Court appears to have exercised a jurisdiction not vested in it in law, the High Court may revise the case and may make such Order as it thinks fit.

Consequently, considering the cited law above and the facts of this case, the Applicant has proved before this Court that the learned Trial Magistrate exercised Jurisdiction not vested in law. Therefore, the Applicant is entitled to the remedies prayed for. This Application is granted. Costs of the Application are awarded to the Applicant.

Signed:.....

HON. LADY JUSTICE ELIZABETH IBANDA NAHAMYA

J U D G E

24thOctober, 2014