

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

HCT-04-CV-MC-0003-2016

IN THE MATTER OF AN APPLICATION BY ROLAX INTERNATIONAL (U) LTD

BEFORE: THE HON. MR. JUSTICE HENRY I. KAWESA

RULING

Applicant sought orders of court to dispose off by way of Sale motor vehicle trailer Reg. No. UAK 508/ZD5458 so as to recover money paid by its insurer to wit Excel Insurance Company Ltd to cover Uganda Revenue Taxes that accrued to the latter by virtue of motor spirit that was destined for Bunia DRC via Uganda but never reached as same was offloaded and dumped at A.S. ALI Filling station along Kyabazinga way, Jinja Municipality.

The application was by Notice of motion under Section 33 Judicature Act, Section 98 Civil Procedure Act and O.52 rules 1, 2, and 3 of the Civil Procedure Rules. The application was accompanied by the affidavit of the applicant **Basangga Laaza Godfrey**.

I have examined the facts, and the law as enumerated by Counsel for the applicant in his submissions. I have also considered and studied the pleadings as filed.

I am however not satisfied that the conditions laid down under the various laws are applicable to these set of facts as enumerated herebelow.

It has been shown and proved that the applicant is a clearing agent of goods and services and was also a tax agent for URA.

A certificate of incorporation was annexed as Annexure 'A'.

Under Annex 'D' it was shown and proved that as a legal requirement under the Customs Laws, the applicant had to get a bond executed by the insurance company to cover any loss of taxes that

may be incurred. Applicant in proof depones so in paragraphs 3 and 4 of his affidavit in support of the application.

The evidence (see paragraph 5 of the affidavit) shows that the applicant cleared the goods as per declaration form annexed as 'E'. Under paragraphs 6-11 of the affidavit it's shown that the goods did not reach and were dumped along Kyabazinga way. He therefore had the motor vehicle impounded and taken to Busitema Police Station. In the meantime URA, claimed its taxes, and the Insurance Company paid. The vehicle remained packed at police, meanwhile the consignee and exporter disappeared.

It was the argument of Counsel that the moment the transporter abandoned and dumped the vehicle he forfeited it under section 119 (c) (iii) of the East Africa Community Laws of Uganda-2004.

I have looked at Section 119 of the East African Community Customs Management Act 2004 (as amended -2012). It provides nothing referred to by Counsel in submission. The said Section 119 (c) (iii) doesn't exist. What exists is section 119 which is concerned with goods imported duty free being liable to certain duties on disposal. In the result I find no enabling law, in which to premise the orders requested for.

I accordingly decline to give the orders. The application is dismissed the applicant will bear own costs of this application.

Henry I. Kawesa

JUDGE

08.11.2016