

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MBARARA

HCT-05-CV-CR-0003-2002

(From Civil Suit No. 28/1998)

TADEO KAKIGA..... APPLICANT

-VS -

DIDA KABYESIZARESPONDENT

BEFORE: THE HON. JUSTICE P. K. MUGAMBA

RULING

This is an application for a Revisional Order brought under S.84 of the Civil Procedure Act. It seeks to set aside the orders of the Deputy Registrar dated 19/10/2001.

I have heard the arguments of both counsel. I have also perused the record. On 19/10/2001 the Deputy Registrar recorded:

‘Court: - No action has been taken in this matter for over 2 years. It is dismissed under O. 15 r 6 CPR.’

Needless to say under the order alluded to a suit may be dismissed if no step has been taken to prosecute the case for two years or more. Perusal of the record reveals the applicant was before the Deputy Registrar on an interlocutory application on 25th February 2000. That was hardly two years prior to the date of the Deputy Registrar’s record on 19/10/2001. When the applicant made an interlocutory application in the process he took a step.

See Victory Construction Co. - vs- Duggal [1962] EA 697.

While I agree with counsel for the respondent that this application was brought in an unorthodox manner I do not agree it should be dismissed the merits behind the application notwithstanding. While Article 126 (2) (c) of the Constitution militates for substantive justice to be administered

without undue regard to technicalities also courts cannot sanction an illegality once brought to their attention.

See Makula International - vs- Emmanuel Cardinal Nsubuga & Anor [1982] HCB 11.

In consequence I find the dismissal was on wrong premises and I set it aside. The main suit is accordingly re-instated.

P. K. Mugamba

Judge

14/3/2003

14/3/2003

Mr. Katembeko for respondent

Both parties in court

Ms Tushemereirwe court clerk

Court:

Ruling read in court.

P. K. Mugamba

Judge