THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

[Coram: Fredrick Egonda-Ntende; Cheborion Barishaki; Percy Night Tuhaise, JJA]

Civil Application No. 0257 of 2017

Male H. Mabirizi K. Kiwanuka::::::::::::::::::::::Applicant

V

The Kabaka of Buganda::::::::::::::::::::::::::::::::::::Respondent

(On reference from the decision of Esta Nambayo, Deputy Registrar, on Taxation, delivered on 27th November 2017)

Ruling of Hon. Lady Justice Percy Night Tuhaise, JA

This reference was made by the applicant before the Deputy Registrar of this Court under rule 110(5) of the Judicature (Court of Appeal Rules) Directions SI 13-10/2005. The Deputy Registrar placed it before a Single Justice of Appeal who referred it to a full Coram. The reference was challenging a ruling of this Court's Deputy Registrar on a preliminary objection (PO) which was raised just before consideration of a bill of costs filed by the appellant.

The background to the reference is that on 21/08/2017 the applicant filed a bill of costs arising from ***Civil Application No. 257/2017 Male H. Mabirizi K. Kiwanuka V The Kabaka of Buganda***. The said application sought a declaration that there was no pending appeal between the applicant and the respondent arising out of the High Court decision on ***Miscellaneous Application No. 395/2017 The Kabaka of Buganda V Male H. Mabirizi K. Kiwanuka*** (a mater handled by the Civil Division of the High Court); an order that the respondent's notice of appeal if any lodged in the High Court in respect of ***MA 395/2017*** be struck out; an order that any purported memorandum of

appeal and record of appeal filed by the respondent (the Kabaka of Buganda) be struck out; and costs be paid to the applicant.

On 13/09/2017, before ***Civil Application No. 257/2017*** was fixed for hearing, the respondent filed a withdrawal of the notice of appeal in the High Court Civil Division. The applicant consequently filed a bill of costs, arguing that he was entitled to costs by virtue of the withdrawal of the notice of appeal in the High Court, and that it was in the premises not necessary to proceed with ***Civil Application No. 257/2017.***

When the bill of costs came up for taxation before the Deputy Registrar of this Court sitting as the taxing officer, the respondent's counsel raised a preliminary objection that the bill of costs was illegal in that it offended specific rules in the Court of Appeal Rules; that the bill arises from the withdrawal of a notice of appeal by the respondent who subsequently chose to seek a review before the trial court and that ***Civil Application No. 257/2017*** has never been fixed for hearing.

The PO was argued on the merits by both parties before the Deputy Registrar of this Court, who sustained it by ruling that the costs the applicant would be entitled to are the costs of the appeal, not costs of ***Civil Application No. 257/2017*** which was yet to be heard; that in respect of the withdrawn appeal, there is no application leading to taxation; that the bill presented arising from ***Civil Application No. 257/2017*** is not the bill for the withdrawn notice of appeal; and that the bill of costs is not properly before Court, as a result of which it was dismissed.

The applicant was dissatisfied with the ruling and he sought a reference on it. The matter was fixed before a Single Justice of Appeal, Hon. Mr. Justice Kenneth Kakuru JA, who on 5th November 2018, referred it to a full panel of three Judges.

Representation

The matter came up for hearing before this panel on 11th February 2019. Mr. Christopher Bwanika and Ms. Charlotte Nalumansi represented the respondent while Mr. Male Mabirizi represented himself as the applicant.

Before hearing of the matter could commence on the merits, the applicant applied for an adjournment. The respondent's counsel also sought leave of Court to raise a preliminary matter of law.

This Court declined to grant the applicant's application for an adjournment and reserved the reason for this. I will address this matter first.

In his application for adjournment, Mr. Mabirizi the applicant informed Court that ordinarily he would be ready to proceed, going by the cause list which had been in his possession for a full month. He pointed out to Court however that the Coram on the original cause list comprised of the Deputy Chief Justice (DCJ) Hon. Mr. Justice Alfonse Chigamoy Owiny-Dollo, Hon. Mr. Justice Fredrick Egonda Ntende, and Hon. Lady Justice Percy Night Tuhaise; that however the panel was changed the very morning before the hearing, substituting the DCJ with Hon. Mr. Justice Cheborion Barishaki.

The applicant informed Court that proceeding before the new panel when it had just changed would derogate his right to a fair hearing. He cited the case of **Muhammed V Roko Construction Civil Appeal No. 1 of 2013 (Supreme Court)**, where the Supreme Court held that parties have to know who is due to hear and determine their case. He argued that this enables litigants to raise objections against a judicial officer or judicial officers due to hear a case where a litigant has a basis for such objection; that obviously, no objection can possibly be raised where, as in the instant appeal, a judicial officer is brought in without knowledge of the parties.

The applicant submitted that he should get time to understand the individual Judges on a panel to see whether he had objections against them; that he had taken time to understand the DCJ, Hon Mr. Justice Egonda Ntende, and Lady Justice Percy Night Tuhaise, but had not got time to measure Hon. Mr. Justice Cheborion Barishaki the new substitute. He maintained that he needed time to contemplate whether to raise an objection against Hon. Mr. Justice Cheborion Barishaki being on the panel or not.

Mr. Bwanika opposed the application to adjourn on the grounds raised by Mr. Mabirizi the applicant. He stated that counsel do not choose their Judges; that in the adversarial system the Court chooses the Judges. He submitted that the applicant had not indicated any grounds as to why he is not comfortable with the panel other than him preferring to choose his own Judges. Mr. Bwanika contended that by now court should have taken judicial notice of this particular litigant in his approach to choose his own Judges and asking courts and Judges to recuse themselves. He submitted that it is on record somewhere that Mr. Mabirizi had objected to almost all the Judges of the Civil Division of the High Court in this matter; and that there is a ruling where Justice Patricia Basaza, the subject of whose decision maybe led to this matter, refused to recuse herself and told him that he had objected to every Judge and she was the only one left.

The respondent's counsel also submitted that courts are very busy; that there are many deserving cases lining up which never find their way to get panels; that luckily for the applicant, he can always get his case fixed in a few days; that his prayer for adjournment merely because he has seen a new Judge is not a tenable reason to warrant an adjournment since this is a serious court.

The respondent's counsel also indicated that he had a preliminary matter of law and had filed submissions and authorities on court's time being wasted on moot cases since the instant matter is based on facts which this court adjudicated on in ***Civil Appeal No.184/2017 The Kabaka of Buganda V Male H. Mabirizi***

Kiwanuka, which decision is attached to one of the affidavits; that the instant application seems to ignore all that.

The respondent's counsel further submitted that he is sure even other Advocates and litigants attending court who have struggled so much for so many years to get their matters heard are shocked by somebody trying to object to a Judge purportedly because he does not know him and would want to go and study him. He questioned the intentions of the applicant studying and trying to measure the Judge, whether by height or weight. He contended that this is a flimsy reason; and that this is a serious court of record in this country which cannot just be taken for a ride for one who wants to turn the court into a playing field. He prayed that Court proceeds to hear the preliminary matter of law which would dispose of the instant application without the need to waste any further court's time.

Mr. Mabirizi submitted in rejoinder that the right to fair hearing under Article 28(1) and 44(C) of the Constitution is non derogable; that no matter the reasons, however much counsel may say that his application is flimsy, the Supreme Court has set a standard in the case he cited that, actually, a litigant should get time to study a Judge. He contended that it is not a measurement of height as the respondent's counsel says, but a measurement in terms of Article 28(1) of the Constitution. He submitted that the question to contend with is whether the new Judge will give him a fair and impartial hearing. He submitted that he needs time to see whether he can raise an objection against the third Justice who was not on the original cause list, because the recusal procedure as stated in the case of **Shell V Muwema** starts from the chambers; and that he cannot start it from the Court. He maintained that had he known that a third Judge is joining the panel he would have contemplated the same. He reiterated his prayer for an adjournment so that he can take time to study the third Judge.

The Court considered the applicant's prayer for an adjournment together with the submissions from each side as well as the law applicable and the cited authorities.

The applicant's argument is that the right to fair hearing under Article 28(1) and 44(C) Article 28(1) of the Constitution involves parties' right to know who is due to hear and determine their case. The argument appears to suggest that the right to a fair hearing dictates that parties should know who is due to hear and decide their case, and that this has to do with propriety and court's impartiality. Article 28(1) of the Constitution provides that in the determination of civil rights and obligations, or any criminal charge, a person shall be entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law. The right to a fair hearing is one of the non-derogable rights under Article 44(c) of the same Constitution.

The applicant cited **Muhammed V Roko Construction**, already cited, to support his contentions. However, the circumstances under which the Supreme Court came to declare that parties have to know who is due to hear and decide their case in the said case are distinguishable from those in the instant case. In the **Muhammed V Roko Construction** case, the Supreme Court found it irregular that one of the Justices of Appeal, who had not participated in the hearing of the appeal, decided and signed a ruling together with the other two Justices of Appeal who had participated in the hearing, yet it was common knowledge that the third Justice of Appeal who had been substituted in as far as signing and delivering the ruling was concerned, was still the Deputy Chief Justice and a member of the Court of Appeal. It was on that basis that the Supreme Court observed that this raises suspicion and questions about propriety of and the Court's impartiality in making the ruling. The Supreme Court accordingly declared that parties have to know who is due to hear and decide

their case. The Supreme Court ordered the matter to be re-heard in accordance with established procedures under a suitable different Coram.

In the instant case the substituting of a Justice of Appeal was done for purposes of commencing the hearing of the instant matter in absence of the Deputy Chief Justice (DCJ). It had nothing to do with a non-member of a panel signing and delivering a ruling of a panel he did not participate on. In my considered opinion, in light of the given circumstances, since Justice Cheborion Barishaki who replaced the DCJ was not brought on board at the stage of writing and signing the judgment in a case he had not participated in hearing, the applicant has no basis to claim he needed time to study a Judge who it is common knowledge is a Justice of Appeal who had moreover previously handled the applicant's cases.

In the result, this Court agreed with the respondent that the applicant's prayer to this court to adjourn the matter merely because he had seen a new Judge on the panel is not a tenable reason to warrant an adjournment. The Court accordingly declined to grant the adjournment.

After declining to adjourn the matter, for the sake of expedience, and to avoid recalling counsel and the parties should Court decide that the hearing of the reference should proceed notwithstanding the preliminary objection, this Court proceeded to hear both the respondent's preliminary point of law and the reference. On that basis, this Court granted leave to the respondent's counsel to raise the preliminary matter of law first.

In his preliminary point of law, Mr. Christopher Bwanika the respondent's counsel referred Court to ***Civil Application No. 257/2017*** which shows that the applicant's pursuit of costs is based on a notice of appeal which was withdrawn by the respondent. He submitted that the notice of appeal was in respect of an order for costs against the respondent given by the trial Judge after granting a

stay of execution in favour of the same respondent who was applicant in ***Miscellaneous Application No. 395/2017 The Kabaka of Buganda V Male H. Mabirizi K. Kiwanuka***. The respondent then commenced an appeal against the award of costs against him since he had won in getting the stay, but he subsequently withdrew the notice of appeal and decided to pursue a review in the trial court. Counsel submitted that in the meantime this Court heard the appeal on the substantive orders which had been given by the trial Judge and came to the conclusion that the suit was not sustainable in law and the applicant had no *locus*; and that subsequent to the said decision, the lower court (High Court) dismissed the main cause. He informed Court that the said two decisions are contained in annexures **B** and **C** to the respondent's affidavit in reply to ***Civil Application No. 257/2017***.

Mr. Bwanika submitted that, following the said decisions, the applicant did not have *locus standi* to bring any case against the Kabaka of Buganda (respondent), and as such could not derive any benefit out of such litigation because all proceedings from which his claims emanate were found to be an illegality in the two court decisions. He contended that nobody can purport to enjoy fruits from an illegality; that no litigant can derive any benefit from a mere penance of a case in courts of law as the interim order always emerges into the final order; and that any orders which could have been issued by way of interim orders relating to the same subject matter which is ultimately determined and declared to be based on an illegality merges and is subsumed by the final order. He cited **Karabharati Advertising V Hemant Narichania & 6 Others, Supreme Court of India Civil Appeal Nos. Arising out of SLP (C) Nos. 250423 – 25045 of 2010** and **Grindlays Bank Limited V Income Tax Officer** (Supreme Court of India) to support his submissions.

He also submitted that if the suit is dismissed for illegality, the winning party is entitled to costs ultimately but the person who brought the suit illegally cannot

take any benefit out of it, otherwise that would render the legal process a laughing stock or set a dangerous precedent.

He contended that this court needs to make an order to neutralise and give effect to those earlier suits by not permitting the applicant from reaping any benefit after violating the laws to bring this suit before the court. He submitted that the same arguments were presented to the Deputy Registrar of this Court and she dismissed the bill of costs mainly because the applicant purported to bring it under ***Civil Application No. 257/2017*** which had never been heard and never been served. He submitted that the Deputy Registrar of this Court in her ruling on the matter wondered how she could entertain a bill of costs when the instant application under which it was filed has never been considered.

In his submissions in reply, Mr. Mabirizi first recounted the background to this reference (which will not be repeated here since it was summarised above). On the merits of the preliminary objection, he submitted that the preliminary objection is departing from what he objected before the Deputy Registrar that the bill was illegal under the Advocates Act, and that it stretched beyond what was permissible.

The applicant contended that the respondent cannot be allowed to submit on a reference by raising new matters based on a judgment in a different matter which is not before this Court. He referred Court to section 2(x) of the Civil Procedure Act which defines a suit to mean all civil proceedings commenced in any manner prescribed. He submitted that the main suit in the High Court was a suit on its own, so were the respective applications for discovery stay of proceedings.

The applicant also referred Court to paragraph 52 of the judgment in ***Civil Appeal No. 184/2017 The Kabaka of Buganda V Male H. Mabirizi Kiwanuka*** where the respondent's counsel was categorical and dealt with the head action

and the application for discovery but not the proceedings as he is terming them. He contended that in any case ***Civil Appeal No. 184/2017*** is pending an appeal in the Supreme Court and it cannot come up in the instant matter, but most importantly, that this matter is a different matter arising from taxation where that respondent objected to his bill of costs which the Deputy Registrar dismissed hence the instant reference.

Mr. Mabirizi further submitted that Counsel Bwanika admitted before the Registrar that the applicant was entitled to costs but that his challenge was on the quantum basing it on the Advocates Act. He also submitted that the case cited by the respondent's counsel talks about an interim order yet the order in the instant case is not an interim order, that the application in the High Court was for stay of proceedings for which he sought an appeal. He argued that if the respondent argues that the ruling of the High Court granting him costs contained illegalities, he would have left his appeal to stand so that he argues the illegalities, but he instead withdrew it.

Mr. Mabirizi called upon this Court to strike out the affidavits the respondent's counsel referred to in his submissions, arguing that the matter before this Court is a reference, that application which he purports to file affidavits in support and reply had been overtaken by his withdrawal of the appeal. He called upon this Court to proceed to hear the reference.

In rejoinder, Ms. Nalumansi submitted for the respondent that the application which is the subject of the instant reference had not been served upon the respondent when the respondent's counsel made the first appearance; that they got an adjournment within which period the applicant served them a bill of costs then the application; that the bill of costs was arising from nowhere and was served when they had already filed and served him a notice of withdrawal; and that the Deputy Registrar in her discretion disregarded their submissions and decided that the matter arises from nowhere so there can be no taxation. Ms.

Nalumansi contended that, in essence, it is not true that the respondent filed a notice of withdrawal when he got wind of his ***Civil Application No. 257/2017***.

I have considered the submissions of both parties on the preliminary objection as well as the cited authorities and the law applicable.

I note that annexure **B** to the respondent's affidavit in reply regarding ***Civil Application 257/2017*** is a decision of this Court in ***Civil Appeal No.184/2017 The Kabaka of Buganda V Male H. Mabirizi K. Kiwanuka.*** The decision is to the effect that the parties' pleadings and annexures both in the head action and in the application for discovery are not sustainable in law on a number of reasons, including that the applicant's action in the head suit was not a public law action which could therefore not be brought under Article 50 of the Constitution since the pleadings pointed to private rights rather than an infringement of fundamental Human Rights and Freedoms; that the respondent did not name the individuals he purported to be representing neither did he obtain their consent under Order 1 rule 8 of the Civil Procedure Rules; and that courts cannot exercise their discretion to grant orders for discovery on oath and inspection when the main suit is not maintainable.

Annexure **C** to the same affidavit in reply is a ruling of the High Court in ***Miscellaneous Application No. 162/2016 Male H. Mabirizi Kiwanuka V The Kabaka of Buganda*** where the main cause brought by the applicant against the respondent was dismissed by the High Court on 24/10/2018. The dismissal was based on precedent of this Court in ***Civil Appeal No. 184/2017*** as highlighted above.

The applicant does not dispute the existence and content of the said two decisions. However, his argument is that he has since appealed to the Supreme Court against the decision of this Court regarding ***Civil Appeal No. 184/2017***. He made no submissions on annexure **C** the judgment in ***Miscellaneous***

Application No. 162/2016 where the head suit was dismissed by the High Court on 24/10/2018. The essence of the applicant's contentions is that the objection raised by the respondent of suit being illegal is irrelevant because it based on a ruling and a judgment in respect of different matters which are not before this Court.

I respectfully differ from the applicant's contentions. It is clear from the record that ***Miscellaneous Cause No 162/2016*** is the main cause from which ***Civil Appeal No. 184/2017*** and ***Civil Application No. 257/2017*** (the basis of the instant reference) together with other numerous applications, ultimately arise. ***Miscellaneous Cause No 162/2016*** was filed by the applicant, alleging that the respondent had infringed his and other unnamed Buganda people's right to the official mailo land. The parties in the main cause, as well as in ***Civil Appeal No. 184/2017*** and ***Civil Application No. 257/2017*** remain the same.

In that regard, I reject the applicant's submissions that the objection raised by the respondent is based on rulings or judgments on matters which are different from the matter before us. I hasten to add, however, that even if the decisions arose from different suits, nothing would stop this Court of record from addressing factors in those other suits as long as they form part of the adduced evidence before court or were drawn to court's attention by counsel or the parties by way of precedent or *stare decisis*.

Thus, the dismissal of the main cause ***Miscellaneous Cause No. 162/2016*** by the High Court, which followed the judgment of this Court as a superior court in ***Civil Appeal No. 184/2017***, removed or collapsed the foundation on which any claims by the applicant could be based. As such, all the interlocutory applications arising from the dismissed main suit ceased to have life. An interlocutory application is defined in **Black's Law Dictionary, ninth edition** as a motion for equitable or legal relief sought before a final decision. In the instant case, the High Court has made a final decision on the dispute between

the parties by dismissing the suit. Consequently, all applications arising out of, or brought under, the said suit, collapse. This would also defeat the applicant's submissions that the case cited by the respondent's counsel talks about an interim order yet the order in the instant case is not an interim order, since, by the definition above, interim orders are also sought under interlocutory applications.

Secondly, the fact that the applicant filed the main cause when he had no *locus standi* to do so is an illegality by its very nature. It is now trite law that an illegality, once brought to the attention of court, overrides all pleadings including admissions, as well set out in **Makula International V Cardinal Emmanuel Nsubuga [1982] HCB 13.** This Court cannot sanction an illegality or be blind to it once it has been drawn to its attention or once court has discovered it. This would of necessity defeat the applicant's submissions that the preliminary objection is departing from what he objected before the Registrar that the bill was illegal under the Advocates Act and that it stretched beyond what was permissible. There is nothing in the law stating that any party is barred from raising a point of law which is different from that earlier raised.

In that respect, I am persuaded by the decisions in **Karabharati Advertising V Hemant Narichania & 6 Others, Supreme Court of India Civil Appeal Nos. Arising out of SLP (C) Nos. 250423 – 25045 of 2010** where Dr. Justice B. S. Chauhan stated at page 4 of his judgment that no benefit can be derived from an illegality or illegal proceeding; and that nobody can purport to enjoy fruits from his or her own wrongs or illegality.

It is a well-known principle of law that if the suit is dismissed for illegality the winning party is entitled to costs ultimately, but the person who brought the suit illegally cannot take any benefit out of it, otherwise that would render the legal process a laughing stock. This stems from the doctrine of illegality which is

based on two principles, first, that a person should not benefit from his or her own wrong, and, second, that the law should not condone an illegality.

In such circumstances, the interests of justice require that any undeserved or unfair advantage gained by a party invoking the jurisdiction of the court by the mere circumstances that it has initiated a proceeding in the court must be neutralised. It is baffling that the applicant continued to pursue the instant reference and the applications related to it instead of withdrawing the same even after knowing that the head or main suit under which it was filed was dismissed on grounds of him not having the *locus standi* to file the suit.

The applicant submitted that he had filed an appeal against the decision of this Court in ***Civil Appeal No. 184/2017***. The law is that an appeal does not operate as an automatic stay of proceedings. The applicant has not applied for stay of proceedings in this Court pending the hearing of his appeal to the Supreme Court, and he was a willing participant in the instant proceedings. There is nothing in the circumstances of this matter to warrant the discretion of this court to grant a stay of proceedings merely because there is a pending appeal. To that extent the instant proceedings would be termed vexatious litigation in as far as they are unwarranted and repetitive even after the basis from which they emanate is no more, which would in my opinion tantamount to an abuse of court process.

Rule 2(2) of the Judicature (Court of Appeal Rules) Directions SI 13-10/2005 accords this Court inherent powers to make such orders as may be necessary for attaining the ends of justice or to prevent abuse of the process of court. This Court has obligations under the said rule to check or neutralise the unfair advantage that would potentially favour the applicant with interlocutory reliefs which arise from illegal proceedings or non-existent suits.

It also follows that once the main or head suit from which any application arises is dismissed by a competent court, any proceedings or deliberations related to such application would be rendered moot, consequently making the issues arising out of it to be mere academic, or hypothetical, or abstract questions or issues. This infers that even if this Court went ahead to deliberate on the reference placed before it, the decision will not have the effect of resolving any real controversy or legal dispute between the parties, because it is no longer live or existent, by virtue of the basis on which it arose having collapsed through the dismissal of the head or main suit by the High Court which was the competent court to handle it.

Courts of law exist to address real disputes rather than academic ones to ensure that both parties have a full stake in the outcome, but also because it is not worthwhile for this Court to allocate its scarce judicial resources to adjudicate and resolve a moot issue when there are numerous deserving real legal disputes to resolve.

In that respect, the respondent's preliminary point of law is sustained and consequently this reference is dismissed with costs.

Consequently, for the reasons given, it will not be necessary to deliberate on the merits of the reference, much as the parties had made submissions on the same, since it is now in the limbo of legal mootness.

Dated at Kampala this 27th day of June, 2019

Percy Night Tuhaise

Justice of Appeal.

THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

[*Coram: Egonda-Ntende, Barishaki Cheborion & Tuhaise, JJA*]

Civil Application No. 257 of 2017

BETWEEN

Male H M K Kiwanuka ═══════ Applicant

AND

The Kabaka of Buganda ═══════ Respondent

(*On reference from the decision of Esta Nambayo, Deputy Registrar, on Taxation, delivered on 27th November 2017*)

Ruling by Fredrick Egonda-Ntende, JA

Introduction

[1] I have had the benefit of reading in draft the ruling of my sister, Tuhaise, JA., and I agree that this reference should be dismissed with costs. I will just have a few remarks to add. The background, facts and submissions of counsel in this matter have been ably set out in the ruling of my sister aforesaid.

[2] The Deputy Registrar in her ruling agreed with the applicant that according to Rule 94 (4) of the Rules of this court the applicant would have been entitled to costs in respect of the withdrawn appeal. However, what was before her was a bill of costs in respect of Civil Application no. 257 of 2017. She declined to tax the said bill as she stated that it was 'hanging' and had no basis.

[3] Civil Application No. 257 of 2017 has never been heard. It bears no order for costs. No bill of costs can therefore arise on it or under it without an order of court. The application may have been overtaken by events. It would be necessary though to first obtain an order of court allowing costs under it before a bill of costs can be filed under it.

[4] I agree with the learned Deputy Registrar that the bill of costs filed in this application was clearly incompetent.

Decision

[5] As Barishaki Cheborion and Tuhaise JJA agree this reference is without merit and is dismissed with costs.

Other Remarks

[6] Before I take leave of this matter I note that this reference was argued on the 11th February 2019 and it has not been possible until now to issue our ruling in the matter. The delay, which is very much regretted, arose out of the heavy assignments and other official duties that preoccupied the court in the period following the hearing, over which the members of the panel had no control.

Signed, dated and delivered at Kampala this 27th day of June, 2019

Fredrick Egonda-Ntende
Justice of Appeal

THE REPUBLIC OF UGANDA

IN THE APPEAL COURT OF UGANDA AT KAMPALA

(Coram: Egonda – Ntende, Barishaki Cheborion & Tuhaise, JJA)

Civil Application No. 257 of 2017

BETWEEN

Male H M K Kiwanuka ========== Applicant

AND

The Kabaka of Buganda==========Respondent

(On reference from the decision of Esta Nambayo, Deputy Registrar, on Taxation, delivered on 27th November 2017)

RULING BY BARISHAKI CHEBORION, JA.

I have had the benefit of reading in draft the ruling of my Sister, Tuhaise JA, that the preliminary point of law raised by the respondent be sustained and as a consequence this reference should be dismissed with costs.

Signed and date at Kampala this 27th **day of** June **2019**

Justice Barishaki Cheborion

Justice of Appeal