**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA SITTING AT ARUA**

**CIVIL REVISION No. 0002 OF 2016**

**(Arising out of the judgment and decree of the Magistrate Grade One at Arua in C.S. No. 0064 of 2011)**

**OZUU BROTHERS ENTERPRISES ……………………………………… APPLICANT**

**VERSUS**

**AYIKORU MILKA …………………………………………………….… RESPONDENT**

**Before: Hon Justice Stephen Mubiru.**

**RULING**

This application arises from the decision of the Magistrate Grade One of Arua, in civil Suit No. 0064 of 2011, given on 29th January 2016 by which judgment was entered in favour of the respondent in a claim for general and special damages for unfair termination of her contract of service, outstanding benefits and entitlements under that contract, and the costs of the suit.

The applicant seeks a revision of that decision on ground that the Learned Magistrate Grade One exercised jurisdiction not vested in him by law, when he heard and decided a claim for unlawful termination of a contract of employment. The applicant argues that the trial magistrate should have dismissed the suit for want of jurisdiction. In her affidavit in reply, the respondent opposes the application and contends that the court below properly exercised its jurisdiction and that therefore the application has no legal basis.

The background to the impugned judgment is that the respondent was an employee of the applicant, initially as a Marketing Assistant and later as a branch Assistant at Koboko. During the year 2010, when she returned from for her maternity leave, the applicant’s Human Resource Manager informed her that she was suspected of financial mismanagement for which reason she would be transferred to the applicant’s Head Office in Arua. On 15th March 2015, her services were terminated as part of the applicant’s restructuring. The respondent lodged a complaint with the labour officer but the applicant did not respond to any of the notices which invited it for hearing of the dispute by the Labour Officer. The respondent then proceeded to file a suit on 25th October 2011 before the Magistrate Grade One claiming general and special damages for unfair termination of her contract. On 1st November 2011, the applicant’s advocates filed a written statement of defence on its behalf but advised the applicant not to attend the hearing since the magistrate did not have jurisdiction over the matter. Hearing of the suit proceeded ex-parte culminating in the now impugned judgment being entered for the respondent against the applicant on 29th January 2016.

At the hearing of the application, counsel for the applicant, Mr. Ben Ikilai argued that s 93 of *The Employment Act, 2006,* confers exclusive jurisdiction in the first instance to a District Labour Officer in all employment disputes for which reason the Magistrate Grade One did not have the jurisdiction to hear and determine the suit. He cited *Concern Worldwide v Mukasa Kugonza, H.C. Civil Revision No. 1 of 2013* and *Umeme Limited v Daniel Sonko, H.C. Misc. Civil Application No. 25 of 2013* in support of his submissions. In response, counsel for the respondent, Ms. Daisy Patience Bandaru argued that s 93 of *The Employment Act, 2006,* did not expressly oust the jurisdiction of magistrates’ courts over employment disputes and as such the magistrate Grade One who tried the suit was seized with jurisdiction to do so. She cited *Kameke Growers Coop. Society Limited and 7 others v North Bukedi Cooperative Union, S.C. Civil Appeal No. 08 of 1994*, in support of her submissions.

The power of this court to revise decisions of magistrates’ courts which is conferred by section 83 of the *Civil Procedure Act*, *Cap 71* is invoked where the magistrate’s court appears to have; (a) exercised a jurisdiction not vested in it in law; (b) failed to exercise a jurisdiction so vested; or (c) acted in the exercise of its jurisdiction illegally or with material irregularity or injustice, provided that no such power of revision can be exercised unless the parties have first been given the opportunity of being heard; or where, from lapse of time or other cause, the exercise of that power would involve serious hardship to any person. It entails a re-examination or careful review, for correction or improvement, of a decision of a magistrate’s court, after satisfying oneself as to the correctness, legality or propriety of any finding, order or any other decision and the regularity of any proceedings of a magistrate’s court. It is a wide power exercisable in any proceedings in which it appears that an error material to the merits of the case or involving a miscarriage of justice, occurred.

The contention in this case is that s 93 of *The Employment Act, 2006,* ousted the jurisdiction of magistrates’ courts over employment disputes such that the Magistrate Grade One exercised a jurisdiction not vested in it in law when he heard and disposed off ex-parte, the suit filed by the respondent against the applicant.

Any objection as to jurisdiction being so central to the authority of the court to undertake proceedings in a case before it, must be raised at the earliest opportunity so that the court does not engage in a futile exercise (see *Owners of the Motor Vessel “Lillian S” v Caltex Oil (Kenya) Ltd [1989] KLR 1*). Any issue regarding jurisdiction ought to be considered first so that in the event of the court coming to the conclusion that it has no jurisdiction, the exercise of going into the merits of the suit would be unnecessary. The procedure for raising an objection to the jurisdiction of courts in civil matters is provided for under Order 9 r. 3 (1) of *The Civil Procedure Rules*, as follows;

(1) A defendant who wishes to dispute the jurisdiction of the court in the proceedings by reason of any such irregularity as is mentioned in rule 2 of this Order or on any other ground, shall give notice of intention to defend the proceedings and shall, within the time limited for service of a defence, apply to the court for—

(g) a declaration that in the circumstances of the case the court has no jurisdiction over the defendant in respect of the subject matter of the claim or the relief or remedy sought in the action; or

(h) Such other relief as may be appropriate.

(2) An application under sub-rule (1) of this rule shall be by summons in chambers.

It follows from that provision that the applicant instead of filing a written statement of defence as it did, it should have instead filed notice of intention to defend the proceedings and thereafter a chamber summons supported by affidavit, within fifteen days of receipt of summons to file a defence, seeking a declaration that in the circumstances of the case the court had no jurisdiction over the defendant in respect of the subject matter of the claim or the relief or remedy sought in the action. The consequence of this failure is found in Order 9 r. 6 of *The Civil Procedure Rules*, which provides that;

(6) Except where the defendant makes an application in accordance with sub-rule (1) of this rule, the filing of a defence by a defendant shall, unless the defence is withdrawn by leave of the court under rule 1 of Order XXV of these Rules, be treated as a submission by the defendant to the jurisdiction of the court in the proceedings.

Jurisdiction is a term of comprehensive import embracing every kind of judicial action. The term may have different meanings in different contexts. It has been defined as the limits imposed on the power of a validly constituted court to hear and determine issues between persons seeking to avail themselves of its process by reference to the subject matter of the issues or to the persons between whom the issues are joined or to the kind of relief sought (See: A*.G of Lagos State v Dosunmu (1989) 3 NWLR pt.111, pg. 552 S C*). It therefore means and includes any authority conferred by the law upon the court to decide or adjudicate any dispute between the parties or pass judgment or order. A court cannot entertain a cause which it has no jurisdiction to adjudicate upon. A court must have both jurisdiction and competence in order to be properly seized of a cause or matter. Whereas Jurisdiction is a creature of statute and is the power conferred on a court by statute or the Constitution, a court is competent when:

(1) It is properly constituted with respect to the number and qualification of members.

(2) The subject matter of the action is within its jurisdiction and there is no feature in the case which prevents the court from exercising its jurisdiction (such as limitation or lack of capacity of the parties).

(3) The action is initiated in compliance with the rules of procedure and

(4) Any condition precedent to the exercise of its jurisdiction has been fulfilled.

Order 9 r. 6 of *The Civil Procedure Rules* therefore relates to challenges to competence (which is a procedural aspect of jurisdiction) rather than subject matter, personal, territorial or temporal jurisdiction (which is substantive jurisdiction). This is because Order 9 r. 2 of *The Civil Procedure Rules* provides that the filing of a defence by the defendant is not to be treated as a waiver by him or her of any irregularity in the summons. Reading the two provisions together (i.e. O 9 r 6 and O 9 r 2), the conclusion is inevitable that filing a defence in circumstances of this nature, where the party should instead have filed a notice of intention to defend the proceedings, is a submission to the procedural rather than the substantive jurisdiction of the Court. A party who files the defence is those circumstances is not precluded from raising the issue of jurisdiction in the defence or as a preliminary point of law. It is unfortunate that the applicant was misadvised not to attend the proceedings. In filing its written statement of defence, the applicant submitted to the competence of the court to be properly seized of the matter and the court itself was henceforth the appropriate forum for objecting to its substantive jurisdiction to try the case. In *Air Alfaras Limited v Paytheon Air Craft Credit Corporation and Another [2000] KLR 62* it was held that any issue regarding jurisdiction ought to be considered first so that in the event of the court coming to the conclusion that it has no jurisdiction, the intellectual exercise of going into the merits of the matter would be futile.

The issue of jurisdiction was extensively dealt with by the Court of Appeal in the case of ***Owners of Motor Vessel Lillian “s” v Caltex Oil Kenya Limited [1989] KLR 1* in which Nyarangi JA, citing *Words and Phrases Legally Defined* vol. 3 I-N page 13** held:

**By jurisdiction, is meant the authority which a court has to decide matters that are before it or take cognizance of matters presented in a formal way for its decision. The limits of this authority are imposed by statute, charter or commission under which the court is constituted and may be extended or restricted by the like means. If no restriction or limit is imposed the jurisdiction is said to be unlimited. A limitation may be either as to the kind and nature of the actions and matters which the particular court has cognizance or as to the area over which the jurisdiction shall extend, or it may partake both these characteristics. If the jurisdiction of an inferior court or tribunal (including an arbitrator) depends on the existence of a particular state of facts, the court or tribunal must inquire into the existence of the facts in order to decide whether it had jurisdiction; but, except where the court or tribunal has been given power to determine conclusively whether the facts exist. Where the court takes it upon itself to exercise a jurisdiction which it does not possess, its decision amounts to nothing. Jurisdiction must be acquired before judgment is given.**

The Court of Appeal further held that:

**Jurisdiction is everything without it; a court has no power to make one more step. Where a court has no jurisdiction there would be no basis for continuation of proceedings pending other evidence. A court of law downs its tools in respect of the matter before it the moment it holds the opinion that it is without jurisdiction.”**

Therefore, a Court either has the requisite jurisdiction or it does not. It is a well settled principle of law that the court cannot confer upon itself jurisdiction where there is none and neither can the parties confer jurisdiction upon a court by consent, either express or implied (e.g. by absence of objection at appropriate time). While a litigant may submit to a procedural jurisdiction, he or she cannot confer subject matter jurisdiction on a court where the Constitution or a Statute or any principle of the common law is to the effect that the court does not have jurisdiction. A decree without jurisdiction, whether it is pecuniary or territorial or whether it is in respect of the subject–matter of the action, strikes at the very authority of the court to pass any decree, is therefore a nullity and may be questioned at any stage including execution or even in collateral proceedings. It is such a defect which cannot be cured even by consent of parties or failure to comply with the procedure for raising an objection to the jurisdiction of courts in civil matters provided for under Order 9 r. 3 (1) of *The Civil Procedure Rules*.

It is a fundamental principle that is also well established that a decree passed by a court without jurisdiction is a nullity and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings. A defect in competence is extrinsic to adjudication, hence a challenge to jurisdiction can be entertained at any stage of the proceedings, at first instance or on appeal even by way of revision sought by any of the parties and even by the court itself *suo motuto* (on its own motion)*,* to prevent an obvious miscarriage of justice. For the foregoing reasons, the issue of jurisdiction will be considered for the first time in these proceedings even though it ought to have been raised earlier in the court below.

The subject matter civil jurisdiction of Magistrates Courts is conferred by s 208 of the *Magistrates Courts Act, Cap 16* which provides as follows;

208. Courts to try all civil suits unless barred.

Every magistrate’s court shall, subject to this Act, have jurisdiction to try all suits of a civil nature excepting suits of which its cognisance is either expressly or impliedly barred; but every suit instituted in a magistrate’s court shall be instituted in the court of the lowest grade competent to try and determine it. (Emphasis added).

The import of this provision is that the civil jurisdiction of Magistrates Courts is all embracing except to the extent it is excluded by an express provision of law or impliedly by such a provision. Magistrates Courts have no authority to preside over cases where their jurisdiction is explicitly or implicitly barred [by statute]. Therefore, except where their jurisdiction is expressly or impliedly barred, magistrates’ courts have the jurisdiction to entertain and try “all suits of a civil nature.” They have inherent jurisdiction to hear any civil matter unless it is expressly or impliedly excluded from their jurisdiction. This general rule is subject to various limitations found in sections 207, 212 – 215 of the *Magistrates Courts Act,* relating to the nature, value, or the locality of the subject-matter, the residence of the defendant, and so forth. Thus, the law confers on every person an inherent right to bring a suit of civil nature of one's choice, at one's peril, before a magistrate’s court howsoever frivolous the claim may be, unless it is barred by a statute.

It is contended by the applicant that Section 93 of the *Employment Act 2006* divested magistrates’ courts of jurisdiction over employment disputes when it “expressly or implicitly” barred magistrates’ courts from taking cognizance of such suits. The section provides as follows:-

(1) Except where the contrary is expressly provided for by this or any other Act, the only remedy available to a person who claims an infringement of any of the rights granted under this Act shall be by way of complaint to a Labour Officer.

(2) A Labour Officer shall have jurisdiction to hear and to settle by conciliation, or mediation, a complaint-

 (a) by any person alleging an infringement of any provision of this Act.

 (b) by either party to a contract of service alleging that the other party is

in breach of the obligations owed under this Act.

The other relevant provision is section 94 of the same Act which provides for appeals as follows:

1. A party who is dissatisfied with a decision of the Labour Officer on a complaint made under this Act may appeal to the Industrial Court in accordance with this section.
2. An appeal under this section shall lie on the question of law and with leave of the Industrial Court on the question of fact forming part of the decision of the Labour Officer.
3. The Industrial Court shall have power to confirm, modify or overturn any decision from which an appeal is taken and the decision of the Industrial Court shall be final.

It is argued by counsel for the applicant that the *Employment Act 2006* is a special law which was enacted with the sole purpose “to revise and consolidate the laws governing individual employment relationships and to provide for other connected matters” as stated in its preamble. In his view, it created a mechanism for resolving employment disputes through conciliation or mediation and after an award is given by the Labour Officer, it may be challenged by way of an Appeal to the Industrial Court. He contends that to allow magistrates courts to continue hearing matters of a civil nature relating to employment disputes would render the conciliation or mediation proceedings before Labour Officers a mockery and the whole purpose of the scheme as envisaged in the Act shall fail. Counsel for the respondent disagrees. She contends that a court can only be divested of its jurisdiction by an express provision of a statute to that effect, which section 93 of the *Employment Act 2006* does not do, and not by inference, as argued by counsel for the applicant.

My reading of the *Employment Act 2006* as a whole is that it is an attempt at creating a self contained code which in some cases recognizes most employment rights existing under common law and in others creates new ones implied in contracts of service, it creates rights and obligations and mechanisms for enforcing performance, it provides forums for the adjudication of those rights and provides a complete mechanism for the redress of disputes arising therein and ultimately provides a remedy to the aggrieved person by way of Appeal to the Industrial Court. In s 93, it creates an implied bar to the jurisdiction of civil courts and in s 94 attaches finality upon the decisions and orders the Industrial Court. The Act confers ancillary as well as special powers on various persons and institutions in order to carry out effectively the statutory duties cast upon them. The question is whether this Act in creating this mechanism for resolving employment disputes through conciliation or mediation and appeals thereafter to the Industrial Court, either expressly or impliedly barred magistrates’ courts from exercising their otherwise wide jurisdiction to entertain and try “all suits of a civil nature.”

Sections 93 and 94 of the *Employment Act 2006* are technically ouster and finality clauses respectively. Ouster or finality clauses are provisions in statutes that restrict or take away or purport to take away the jurisdiction of a competent court of law. They deny the court the ability to make any meaningful contribution with respect to a particular matter brought before the court. In fact, they seek to deny the litigant any judicial assistance in respect of the matter brought before it, yet the major function of the courts as the third arm of government is to settle disputes through interpretation of the law. Article 129 of the Constitution provides as follows;

(1) The judicial power of Uganda shall be exercised by the courts of judicature which shall consist of—

(d) Such subordinate courts as Parliament may by law establish……

Generally speaking, courts are creatures of the constitution or statute and it is the statute that creates a particular court that will also confer on it, its jurisdiction. It is well established that the jurisdiction of courts so created to try suits of a civil nature is assumed unless it is taken away statutorily, either expressly (by enactment) or by necessary implication (based on general principles of law and equity or on ground of public policy). Exclusion of jurisdiction means prevention or prohibition of the court from entertaining or trying a matter though the dispute is civil in nature, in essence limiting its ability to discharge its constitutional mandate.

De Smith’s *Judicial Review*, 6th ed 2007 by H. Woolf, J. Jowell and A. le Sueur, states at para 4-015 as follows;

The role of the courts is of high constitutional importance. It is a function of the judiciary to determine the lawfulness of the acts and decisions and orders of public authorities exercising public functions, and to afford protection to the rights of the citizen. Legislation which deprives them of these powers is inimical to the principle of the rule of law, which requires citizens to have access to justice.

For that reason, it is now a well recognized rule in the interpretation of statutes that a curtailment of the powers of a court of law, in the absence of an express provision or clear implication to the contrary, is not to be presumed. In the case of *Smith v East Elloe Rural District Council [1965] AC 736* Lord Viscount Simonds stated as follows;-

Anyone bred in the tradition of the law is likely to regard with little sympathy legislative provisions for ousting the jurisdiction of the court, whether in order that the subject may be deprived altogether of remedy or in order that his grievance may be remitted to some other tribunal.

It was also held similarly, in *Davies and Another v Mistry [1973] EA 463* where Spry VP, quoting the case of *Pyx Granite and Company v Ministry of Housing and Local Government [1960] AC 260* stated that: “‘It is a principle not by any means to be whittled down that the subject’s recourse to Her Majesty’s courts for the determination of his rights in not to be excluded except by clear words. That is a ‘fundamental rule’ from which I would not for my part sanction any departure.” Therefore, the right of access to any court can only be taken away by clear and unambiguous words of Parliament.

The principle of law that statutory provisions tending to oust the jurisdiction of the court should be construed strictly and narrowly was further propounded in the landmark decision in *Anisminic v Foreign Compensation Commission [1969] I All ER 208* where Lord Reid stated:

It is a well established principle that a provision ousting the ordinary jurisdiction of the court must be construed strictly meaning, I think, that, if such a provision is reasonably capable of having two meanings, that meaning shall be taken which preserves the ordinary jurisdiction of the court.

Similarly, the stand of the Australian Courts is that although Parliament bears the popular mandate, and that it can, indeed, provide for an ouster clause in a statute, it has to have spoken unequivocally. This is particularly clear from Craig v South Australia ***[1995] 184 CLR***, in which the High Court observed:

Parliament can, of course, if it so desires, confer upon administrative tribunals or authorities power to decide questions of law as well as questions of fact or of administrative policy; but this requires clear words, for the presumption is that where a decision-making power is conferred on a tribunal or authority that is not a court of law, Parliament did not intend to do so.

In respect of its unlimited original jurisdiction, the High Court of Uganda has taken the view that an Act of Parliament, except one which amends the Constitution, may not oust its jurisdiction over any matter of a civil nature. For example in the case of the *Former Employees of G4S Security Services v G4S Security Services Ltd, S.C Civil Appeal No.18 of 2010*; it was contended that sections 93(1) and 94 of the *Employment Act 2006*, clearly intended to oust the jurisdiction of the ordinary civil courts in Uganda by ensuring that employment matters are only handled by Labour Officers and the Industrial Court. The Court found that the two sections conflict with the article 139 (1) of the Constitution in so far as they limit the unlimited original jurisdiction of the High Court to hear employment matters as a court of first instance. It therefore held that Article 139 (1) of the Constitution remains superior and mandatory until altered or modified by that other law which can only be an Act made by Parliament or a constitutional amendment by the same authority. The High court therefore retains its unlimited original jurisdiction to hear employment matters as a court of first instance, despite the provisions of sections 93 (1) and 94 of the *Employment Act 2006*.

**Similar decisions are to be found in the case of *David Kayondo v Cooperative Bank Limited, S.C. Civil Appeal No 19 of 1991*** where it was held that the provisions of the Cooperative Societies Act to the effect that all disputes shall be referred to arbitration did not oust the jurisdiction of the High Court and in the case of *Kameke Growers Cooperative Society Limited and 7 others v North Bukedi Cooperative Union, S.C. Civil Appeal No. 08 of 1994*; *[1994] VI KALR 1*, where it was held that a statute purporting to oust the jurisdiction of the High Court must say so explicitly. Lastly, the case of *Commissioner General, Uganda Revenue Authority v Meera Investments Limited*, *S. C.Civil Appeal No. 22 of 2007* which involved provisions in the *Tax Appeals Tribunal Act, Cap. 345*, which are similar to those found in the *Employment Act 2006*. The Supreme Court held that article 139 (1) of the Constitution confers unlimited original jurisdiction to the High Court in all matters. This is made subject to only the provisions of the Constitution. This meant that the original jurisdiction of the High court can only be changed by amending the Constitution. An Act of Parliament cannot repeal, alter or reverse a provision of the Constitution unless it is an Act to amend the Constitution. This is grounded on the fact that the Constitution is the Supreme law of the land.

In light of the approach taken by the superior courts in the interpretation of statutes purporting to oust their jurisdiction, it is my considered view that the well established principle that a provision ousting the ordinary jurisdiction of the court must be construed strictly applies to the subordinate courts as well. This means that if such a provision is reasonably capable of having two meanings, that meaning shall be taken which preserves the ordinary jurisdiction of the subordinate court. It should be presumed that Parliament does not intend to cut down the jurisdiction of the subordinate courts save to the extent that the legislation in question expressly so states or necessarily implies.

The mere grant of jurisdiction to another tribunal does not operate to oust the jurisdiction of subordinate courts over the same subject matter. Because of the provisions of s 208 of *The* *Magistrates Courts Act, Cap 16*, a general jurisdiction is conferred on magistrates’ courts over “all suits of a civil nature” cognizable by those courts, of which the exclusive jurisdiction is not given to some other court or tribunal. The fact that no other court or tribunal has exclusive jurisdiction in a civil matter is sufficient to give a Magistrate’s Court jurisdiction over that matter, subject to the restrictions relating to the nature, value, or the locality of the subject-matter, the residence of the defendant, and so forth, found in sections 207, 212 – 215 of the *Magistrates Courts Act*.

The question therefore is whether sections 93 and 94 of the *Employment Act 2006* explicitly or by necessary implication vested exclusive jurisdiction at first instance over all types of employment disputes, in the District Labour Officer, thereby ousting the jurisdiction of Magistrates’ Courts over such matters. The answer to this question must be arrived at after construing the two provisions strictly as is the norm when dealing with ouster or finality clauses in statutes, coupled with the primary rule in the construction of statutory provisions which is to ascertain the intention of the Legislature.

One does so by attributing to the words of the statute their ordinary, literal, grammatical meaning. Where the language of a statute, so viewed, is clear and unambiguous effect must be given thereto, unless to do so “would lead to absurdity so glaring that it could never have been contemplated by the Legislature, or where it would lead to a result contrary to the intention of the Legislature, as shown by the context or by such other considerations as the Court is justified in taking into account” (per Innes CJ in *R v Venter 1907 TS 910 at 915*). The words used in an Act must be viewed in the broader context of such Act as a whole. When the language of a statute is not clear and unambiguous one may resort to other canons of construction in order to determine the Legislature’s intention. Lord Denning set out a similar position in the case of *Nothman v Barnet Council [1978] 1 WLR 220* where he stated;

It [literal interpretation] is the voice of strict constructionists. It is the voice of those who go by the letter. It is the voice of those who adopt the strict literal grammatical construction of words, heedless of the consequences. Faced with staring injustice, the judges are, it is said, are impotent, incapable and sterile. Not with us in this court. The literal method is now completely out of date. It has been replaced by the approach which Lord Diplock described as the “purposive approach.” In all cases now in the interpretation of statutes we adopt such a construction as will “promote the general legislative purpose” underlying the provision ... It is no longer necessary for the judges to wring their hands and say: “There is nothing we can do about it”. Whatever the strict interpretation of a statute gives rise to an absurd and unjust situation, the judges can and should use their good sense to remedy…. by reading words in, if necessary, so as to do what Parliament would have done, had they the situation in mind.

The following are the operative words in s. 93 (1) and (2) of *The Employment Act, 2006* which purport to delimit the jurisdiction of the District Labour Officer; “any of the rights granted under this Act,” “any person alleging an infringement of any provision of this Act” and “breach of the obligations owed under this Act.” Those operative words in their ordinary, literal and grammatical meaning restrict the jurisdiction of District Labour Officers to the enforcement and provision of remedies for the infringement of employment rights granted and obligations created under the Act. However, I am required to consider not only the language of the Act but also the social conditions which gave rise to it, and supplement the written word so as to give “force and life” to the intention of the legislature. The intention of Parliament in enacting the Act is contained in the preamble to the effect that the Act is meant “to revise and consolidate the laws governing individual employment relationships and to provide for other connected matters.” In section 3 of the Act, it is meant to apply “to all employees employed by an employer under a contract of service,” except as otherwise provided by the Act.

The purpose of the Act appears to target a wider scope than what sections 93 (1) and (2) create as the limit of the District Labour Officers’ jurisdiction and herein lays the ambiguity. One possible interpretation is that Parliament intended to restrict the jurisdiction of District Labour Officers only to claims founded on rights and obligations created under the Act and not generally to all employment disputes. The other is that Parliament intended to confer jurisdiction upon District Labour Officers over any type of employment dispute. Legal provisions excluding jurisdiction of civil courts and conferring jurisdiction to tribunals must be strictly interpreted in such a way that as far as possible, the jurisdiction of civil courts is not taken away. If the statute contains two interpretations, then the one conferring jurisdiction will prevail. When one applies the principle that the court should lean to an interpretation which would maintain the jurisdiction, that approach favours the interpretation that in legislating sections 93 (1) and (2) of *The Employment Act, 2006*, Parliament did not intend to confer jurisdiction upon District Labour Officers over all types of employment disputes but rather only those where the claims are founded exclusively on rights and obligations created under the Act. The jurisdiction of District Labour Officers is restricted to matters based on the Act and does not include matters of employment disputes under the general or common law.

For that reason, in the event of an employment dispute arising out of a right or liability under the general or common law and not under the Act, the jurisdiction of the civil court is not affected. For a similar reason, in case of an employment dispute arising out of a right or liability both under the *Employment Act, 2006*, as well as the general or common law, the remedy lies only in the Magistrates’ courts and not the District Labour Officer whose jurisdiction is restricted to claims founded exclusively on rights and obligations created under the Act.

The next question then is whether the jurisdiction conferred to District Labour Officers over only those claims founded on rights and obligations created under the Act was intended to be exclusive. The general presumption is that a statute should not be given such an interpretation as to take away the jurisdiction of the court unless the language of the statute is unambiguous and clear. In the instant case, the wording of s 93 (1) of *The Employment Act, 2006* is that “except where the contrary is expressly provided for by this or any other Act…” In the context of the existing jurisdiction of magistrates’ courts, the evident purpose of Parliament in choosing this wording was to make the original jurisdiction of District Labour Officers exclusive only in cases where magistrates’ courts had not already been invested by law with co-extensive judicial power of cognizance of rights and obligations created under the Act. However, s 208 of *The Magistrates’ Courts Act*, already expressly provided that “every magistrate’s court shall, subject to this Act, have jurisdiction to try all suits of a civil nature excepting suits of which its cognisance is either expressly or impliedly barred.” Since s 93 (1) of *The Employment Act, 2006* does not expressly bar that jurisdiction, the only question that remains is whether it does so by necessary implication.

Ancillary to this, Counsel for the applicant argued that the *Employment Act, 2006* is a specific and comprehensive law on employment creating a clear mechanism for dispute resolution which should be followed. It is settled principle in the interpretation of statutes conferring a special right or a liability that a suit arises under the statute only when the plaintiff’s statement of his own cause of action shows that it is based upon that statute. For example, in *Alcock and Others v Chief Constable of South Yorkshire Police [1991] 2 WLR 814,* it was held that in English law no damages are awarded for grief or sorrow caused by a person's death and that it remained true that death of itself is not a cause of action. For a similar reason, it was held in *Ali Mustafa v Sango Bus Company [1975] HCB 91, at p.92*, that fatal accident claims could only be based upon the Law Reform (Misc. Provisions) Act, and that that if that fact was not pleaded, the plaint disclosed no cause of action. Similarly in the instant case, to the extent that *The Employment Act, 2006* confers a special right or a liability, for a cause of action to be properly stated before a District Labour Officer, the complaint must indicate that the claim is made out based on provisions of *The Employment Act, 2006*. This is more so considering the provisions of s 93 (2) (a) and (b) which require claims to be brought by “any person alleging infringement of any provision of the Act” or “breach of obligations owed under the Act.”

On the other hand, where a statute creates a special right or a liability and provides for the determination of the right or liability and further lays down that all questions about the said right and liability shall be determined by the tribunals so constituted under the Act, and whether remedies normally associated with actions in civil courts are prescribed by the said statute or not, the tendency of courts is to construe such a statute as being exhaustive with regard to those matters which are specifically dealt with by that Act, but not otherwise. For example **in the case of *Kenya Medical Practitioners and Dentists Union, Kenya National Union and nurses and Kenya Health Practitioners v Transitional Authority and Council of Governors,*** *JR 317 of 2013* the court, citing with approval the decision in the **speaker of *The National assembly v Karume [2008] 1 KLR 426*** held **th**at: **“where an obligation is created by statute and a specific remedy is given by that statute, the person seeking the remedy is deprived of any other means of enforcement**.” Therefore, where a specific remedy is given by a statute, it thereby deprives the person who insists upon a remedy of any other form than that given by the statute. Where an Act creates an obligation and enforces its performance in a specified manner, that performance cannot be enforced in any other manner.

Similarly in the case of *Chief Engineer, Hydel Project and others v Ravinder Nath and others, AIR 2008 SC 1315* (SC of India), the Chief Engineer, the Superintending Engineer (Construction Circle) and Personnel Officer, of a Project, filed a second appeal to question the correctness of the judgment of the High Court on appeal confirming the judgment passed by a subordinate court basically on the ground that there was a complete lack of jurisdiction in the trial court since the issues squarely fall within the ambit of the *Industrial Disputes Act, 1947* and as such the remedy for the 9 respondents-workmen, who are workmen under the Industrial Disputes Act, lies with the authorities there under and not with the Civil Court. The Nine respondents had filed the suit seeking the relief of (i) declaration to the effect that the orders of their termination / retrenchment from service were illegal and (ii) that they were entitled to reinstatement in service with back-wages. The employers / appellants claimed that the termination was effected in the light of the Rules under the Certified Standing Orders. The plaintiffs / respondents alleged that the principles under the provisions of the Certified Standing Orders were completely ignored and a highly arbitrary, discriminatory approach was adopted by the employer by picking and choosing the plaintiffs for the purposes of termination.

The relevant provisions of the *Industrial Disputes Act, 1947* stated as follows;

s 2A, “Dismissal etc., of an individual workman to be deemed to be an industrial dispute.-

Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

s.4 (k) “industrial dispute” means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

s. 7 Labour Courts.-

(1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act.

THE SECOND SCHEDULE

(SEE SECTION 7)

Matters within the Jurisdiction of Labour Courts

1. The propriety or legality of an order passed by an employer under the standing orders;

2. The application and interpretation of standing orders;

3. Discharge or dismissal of workmen including re-instatement of, or grant of relief to, workmen wrongfully dismissed;

4. Withdrawal of any customary concession or privilege;

5. Illegality or otherwise of a strike or lock-out; and

6. All matters other than those specified in the Third Schedule.

THE THIRD SCHEDULE

(SEE SECTION 7A)

Matters within the Jurisdiction of Industrial Tribunals

1. Wages, including the period and mode of payment;

2. Compensatory and other allowances;

3. Hours of work and rest intervals;

4. Leave with wages and holidays;

5. Bonus, profit sharing, provident fund and gratuity;

6. Shift working otherwise than in accordance with standing orders;

7. Classification by grades;

8. Rules of discipline;

9. Rationalisation;

10. Retrenchment of workmen and closure of establishment; and

11. Any other matter that may be prescribed.

In light of those provisions, the respondents’ claim was contested by the appellant who contended that the trial court had no jurisdiction to entertain the suit since the relief of reinstatement was available only under the *Industrial Disputes Act*. Learned counsel appearing on behalf of the appellants urged that since the issues squarely fell within the ambit of the *Industrial Disputes Act, 1947* and since there was a specific remedy available to the plaintiffs / respondents under that Act, the jurisdiction of the Civil Court was impliedly excluded and all the courts below erred in entertaining and deciding upon the issues. The Supreme Court held that since the plaintiffs / respondents had averred breach of Section 25-G of the *Industrial Disputes Act*, in that, they had alleged that the employer had shown discriminatory attitude and the plaintiffs / respondents were picked and chosen for being terminated and thus were victimized, there was no doubt that the dispute and the main issue fell squarely under the premise of *Industrial Disputes Act*. Further, the court decided that such issues fell in the exclusive area of the machinery provided by the *Industrial Disputes Act* and as such the civil courts jurisdiction was specifically barred. The dispute, therefore, clearly fell outside the civil courts’ jurisdiction. Since there was a specific remedy available to the plaintiffs / respondents under that Act, the jurisdiction of the Civil Court was impliedly excluded and all the courts below erred in entertaining and deciding upon the issues.

The Court, reasoned that a dispute involving the enforcement of the rights and liabilities created by the certified standing orders, from a plain reading of the above provisions has necessarily got to be adjudicated only in the forums created by the *Industrial Disputes Act* within the meaning of Sections 2 (k) of the *Industrial Disputes Act* as the enactment said that such disputes shall be either treated as an industrial dispute or shall be adjudicated by any of the forums created by the *Industrial Disputes Act*. The civil courts had no jurisdiction to entertain such suits.

In coming to the conclusion it did, the Court in India was dealing with an all encompassing provision which expressly covered “any dispute or difference between employers and employers” unlike our s. 93 of *The Employment Act, 2016* which provides for an exception in respect of employment disputes where the contrary is expressly provided for by the Act itself or any other Act. The jurisprudence in India allows for the jurisdiction of courts to be ousted by inference just as our s 208 of *The Magistrates’ Courts Act*, does. However, the court did not express itself as regards the circumstances in which such inference can be made. What emerges from the jurisprudence of India though is that the presumption against interference with the jurisdiction of a court of law is not applied strictly in cases where legislation purports to exclude the jurisdiction of a court in favour of another court which is at the same level in the hierarchy of courts as the first mentioned court. The same cannot be readily said of jurisdiction in favour of a tribunal which is not at the same level of hierarchy as that of the court from which the jurisdiction purports to be divested. In such cases, the exclusion of jurisdiction of a civil court to entertain civil causes will not be readily inferred unless the relevant statute contains an express provision to that effect, or leads to a necessary and inevitable implication of that nature.

L. M. Du Plessis in his book, *The Interpretation of Statutes* (1986) states at page 157 para. 58.3 that “...where an enactment expressly permits achieving a certain result, it also permits everything necessary to achieve that resultby implication ..” (Emphasis supplied). However, E. A. Kellaway in his book, *Principles of legal interpretation of statutes, contracts and wills* (1995), at pages 330 and 331 states that;

If something is “necessarily implied” in an Act ... it is deemed to be expressed by the language used by the Act; that is, what is implied is deemed to be expressed although the language used does not explicitly say it ..... In the case of enactments, what is implied arises ... from the presumed intention of the legislature and the implication is drawn with the object of giving efficacy to the provisions of an enactment in question. Van Winsen J in the judgment of *S v Van Rensburg 1967 (2) SA 291 (C)* at 294 refers to this issue stating that “if ... an intention is to be ascribed to the legislature it can only be on the ground that if the [legislation] is looked at as a whole the implication arises that such must have been the intention of the legislature. This implication must be a necessary one in the sense that without it effect cannot be given to the statute as it stands.”(Emphasis supplied).

E. A. Kellaway continues at page 332 to state as follows;

It must be clearly stated that when an express provision might very properly have been provided for in the context of a statute, for a court to insert it *by away of an implication* when it could not properly be implied from the provision would *not* be the construing of the statute, but the altering or enlarging thereof, which is not permitted, and, if permitted, *would* be “legislating”. On the other hand, where the language used necessarily and naturally implies something more, the latter is deemed to be contained in the language so expressed ...... a power which is a necessary intendment for an express statutory provision is implied as having been duly granted by the legislature. (By “necessary” is here meant... that without an *implied ancillary* power the express provision could not be carried out.) It is submitted that the test as to whether something is necessarily implied, is to question whether *that* something is properly or reasonably required, or necessary or incidental to, or ancillary to any of the provisions contained in the statute.

In effect the court has to weigh up linguistic, contextual and common law considerations in order to determine whether judicial lawmaking is justified under the circumstances. The question then becomes whether giving effect to the jurisdictional provisions of *The* *Employment Act, 2006* by necessary implication requires divesting magistrates’ courts of their jurisdiction such that without such an inference “ effect cannot be given to the statute [*The* *Employment Act, 2006*] as it stands” or such an inference is “necessary to achieve that result intended by the Act.” For such an inference to be drawn, it must not only be reasonable but must also be a necessary one. I am of the view that Parliament did not intend the Magistrates’ Courts’ jurisdiction to be ousted in order to attain the purpose of creating a forum for the resolution of employment civil disputes arising between workmen and their employers, in a speedy, inexpensive and effective manner.

By way of analogy, it is an equally well settled principle that implied repeal is not readily inferred and the mere provision of an additional remedy by a new Act does not take away an existing remedy. The implied repeal of an earlier law can be inferred only where there is enactment of a later law which had the power to override the earlier law and is totally inconsistent with the earlier law and the two laws cannot stand together. If the later law is not capable of taking the place of the earlier law, and for some reason cannot be implemented, the earlier law would continue to operate. To such a case, the rule of implied repeal may result in a vacuum which the law making authority may not have intended. For there to be an implied repeal, there must be what is often called “such a positive repugnancy between the two provisions of the old and the new statutes that they cannot be reconciled and made to stand together”. In other words the old and new statutes must be absolutely repugnant or irreconcilable. Otherwise, there can be no implied repeal.

The intention of the legislature in creating the District Labour Officer as a forum for the settlement of employment disputes is not hard to find. It was aptly stated in the Indian case of *Rajasthan State Road Transport Corporation v. Krishan Kant, 1995 AIR 1715, 1995 SCC (5) 75* when considering the purpose of *The Industrial Disputes Act, 1947* thus;-

At the same time, we must emphasise the policy of law underlying the *Industrial Disputes Act* and the host of enactments concerning the workmen made by Parliament and State legislatures. The whole idea has been to provide a speedy, inexpensive and effective forum for resolution of disputes arising between workmen and their employers. The idea has been to ensure that the workmen do not get caught in the labyrinth of Civil Courts with their layers upon layers of appeals and revisions and the elaborate procedural laws, which the workmen can ill afford. The procedures followed by Civil Courts, it was thought, would not facilitate a prompt and effective disposal of these disputes. As against this, the Courts and Tribunals created by the *Industrial Disputes Act* are not shackled by these procedural laws nor is their award subject to any appeals or revisions. Because of their informality, the workmen and their representatives can themselves prosecute or defend their cases. These forums are empowered to grant such relief as they think just and appropriate. They can even substitute the punishment in many cases. They can make and re-make the contracts, settlements, wage structures and what not. Their awards are no doubt amenable to jurisdiction of the High Court under Article 226 as also to the jurisdiction of this Court under Article 32, but they are extra-ordinary remedies subject to several self-imposed constraints. It is, therefore, always in the interest of the workmen that disputes concerning them are adjudicated in the forums created by the Act and not in a Civil Court. That is the entire policy underlying the vast array of enactments concerning workmen. This legislative policy and intendment should necessarily weigh with the Courts in interpreting these enactments and the disputes arising under them.

If that be the intention of *The Employment Act, 2006*, then the intent of the legislature to divest magistrates’ courts of their jurisdiction over employment civil disputes by way of excluding the application of s 208 of the *Magistrates Courts Act* is utterly lacking. There isn’t “such a positive repugnancy” between the two provisions; s 93 of the *Employment Act, 2006* and s 208 of the *Magistrates Courts Act* that they cannot be reconciled and made to stand together. Operationalising that forum therefore does not by necessary implication require divesting magistrates’ courts of similar jurisdiction.

Although there are many employment disputes amenable to the informality of proceedings before Labour Officers, where the workmen and their representatives can themselves prosecute or defend their cases, there also might be situations where one of the parties needs the expertise of a judicial officer in interpreting a complicated factual or legal scenario. It should be kept in mind that there could well be instances where employment relations could lead to disputes of legal and factual complexity or that other circumstances might exist that could force either party to approach a magistrates’ court rather than a District Labour Officer. The possibility of cases of legal or factual complexity supports the view that it was not the intention of the legislature to oust the jurisdiction of magistrates’ courts, but rather create alternative forums with concurrent jurisdiction. The civil jurisdiction of the magistrates’ courts in employment disputes is alternative, leaving it to the election of the plaintiff concerned to choose his remedy for the relief which is competent to be granted by way of a particular remedy available from one of the forums.

For the foregoing reasons, I am of the considered opinion that whereas the primary intention of creating District Labour Officers as a forum for employment civil disputes resolution is to provide a speedy, inexpensive and effective forum for resolution of disputes arising between workmen and their employers, it is created as an alternative and concurrent rather than an exclusive forum since s 93 of the *Employment Act, 2006* does not expressly exclude the application of s 208 of *The* *Magistrates Courts Act* to employment disputes and such an intention cannot be inferred since such inference is not necessary to achieve the result intended by the *Employment Act, 2006* and neither is it required for purposes of giving effect to the Act as it stands nor is there such a positive repugnancy between the two provisions that they cannot be reconciled and made to stand together.

Although magistrates’ courts exercise concurrent jurisdiction with District Labour Officers in claims founded on rights and obligations created under the *Employment Act, 2006* arising within their area of jurisdiction, it should be noted that in circumstances of concurrent jurisdiction, courts have always discouraged plaintiffs from approaching them with matters that can be dealt with in an alternative forum at less expense to the litigants. This practice is not a divestiture of jurisdiction but rather an exercise of discretion by the court especially in light of Article 126 (2) (d) of the Constitution, which provides that in exercising judicial authority, reconciliation between parties shall be promoted. This provision requires courts to be guided by the principles of alternative forms of dispute resolution including conciliation, mediation, arbitration and traditional dispute resolution mechanisms. Courts of law cannot be said to be promoting ADR when they readily entertain disputes which ought to be resolved in other legal forums. Deference to such alternative forums is not an admission of lack of jurisdiction.

Such reasoning can be found in the case of *Uganda Broadcasting Corporation v Kamukama,* *H.C. Misc. Application No. 638 OF 2014* where the learned trial Judge agreed with the submission that the court had unlimited original jurisdiction in all causes. However, the learned Judge went ahead to say that;-

This position of the law was not meant to deny lower courts and quasi judicial forum the mandate to adjudicate over matters which the different legislations empower them to do. For easy access to justice and proximity to the public it is reasonable and is court policy that causes should be instituted in the lowest mandated forum possible before resort is had to the High Court to avoid unnecessary expenses……. by parliament enacting other subordinate legislation conferring jurisdiction to different forum to adjudicate over disputes does not in any way diminish the fact that the High Court has unlimited jurisdiction…….Much as this court has unlimited jurisdiction if one looks at the intention of parliament in conferring jurisdiction on the Labour officer and the creation and operationalisation of the Industrial Court with appellate jurisdiction it would be prudent if these two institutions are put to good use. This is our current court policy. Avoiding these institutions would be defeating the intentions of the legislature since the Industrial Court is now operational. I find it proper to refer this matter to the Labour Officer for appropriate handling.

Accordingly, the court agreed that where there was an alternative remedy and procedure available for the resolution of a dispute, that remedy ought to be pursued and the procedure adhered to, since t**he alternative dispute resolution processes are complementary to the judicial process. Sometimes courts are obligated by the rules of procedure to promote these modes of alternative dispute resolution by either staying the proceedings until such time as the alternative remedy has been pursued or bringing an end to the proceedings before the court and leave the parties to pursue the alternative remedy. It may be a procedural irregularity but there is nothing illegal though, or fundamentally affecting the jurisdiction of the court, if it instead chose to proceed with the suit rather than defer to these mechanisms.**

I have considered the decisions cited by learned counsel for the applicant in support of his submissions, i.e. *Umeme Limited v Daniel Sonko and another, H.C. Misc. Application No. 1135 of* 2010 and Concern *Worldwide v Mukasa, H.C. Civil Revision No. 1 of 2013(Soroti)*, where it was decided that *The Employment Act, 2006* removes jurisdiction from magistrates courts and confers jurisdiction in employment disputes on District Labour Officers and the Industrial Court on appeal. In light of the conclusions I have come to above, I find myself unable to follow these precedents, more especially since they are not binding on me and also for the reason that in coming to that conclusion, the learned trial Judges did not allude to and apply to the facts before them, the well established principle of law that statutory provisions tending to oust the jurisdiction of courts should be construed strictly and narrowly, before coming to the conclusion that they did. In my considered but very respectful opinion, the two cases were wrongly decided.

I am fortified in this view by the decision of **Mulenga, JSC** in Habre ***International Company Limited v Kassam and Others [1999] 1 EA 125*** where he stated that:

**The tendency to interpret the law in a manner that would divest courts of law of jurisdiction too readily unless the legal provision in question is straightforward and clear is to be discouraged since it would be better to err in favour of upholding jurisdiction than to turn a litigant away from the seat of justice without being heard; the jurisdiction of courts of law must be guarded jealously and should not be dispensed with too lightly and the interests of justice and the rule of law demand this.**

Having applied the principle of law that statutory provisions tending to oust the jurisdiction of courts should be construed strictly and narrowly, from the foregoing analysis the following can be deduced as regards the jurisdiction of District Labour Officers and Magistrates’ Courts in civil matters relating to employment disputes;

 (1) In case of an employment dispute which does not relate to enforcement of any rights under the *Employment Act, 2006,* the remedy lies only in the Magistrates’ courts.

(2) In case of an employment dispute arising out of a right or liability under the general or common law and not under the *Employment Act, 2006*, the remedy lies only in the Magistrates’ courts.

(3) In case of an employment dispute arising exclusively out of a right or liability under the *Employment Act, 2006*, and not the general or common law, the jurisdiction of the Magistrates’ courts is concurrent and alternative to that of District Labour Officers, leaving it to the election of the plaintiff concerned to choose his or her remedy for the relief which is competent to be granted in a particular remedy available from either forum.

(4) In case of an employment dispute arising out of a right or liability under the *Employment Act, 2006*, as well as the general or common law the remedy lies only in the Magistrates’ courts.

Now I must examine the facts of the application before me in the light of the principles adumbrated above. The first thing to be examined is the basis upon which the respondent claimed the several reliefs in the suit. Nowhere in the plaint did the respondent state that her claim was based on *The Employment Act, 2006*. There is nothing pleaded to the effect that the respondent claimed as a “person alleging infringement of any provision of the Act” or “breach of obligations owed under the Act” as required by the provisions of s 93 (2) (a) and (b) of the Act. The respondent’s cause of action, not having been stated to have arisen under the specific rights and obligations created by that Act technically took it out of the jurisdiction of the District Labour Officer. Although reference to the Act was very likely, in the course of the litigation, and that questions under the Act could arise, that alone does not show that the suit was based on the Act. The reliefs claimed are of the nature ordinarily awarded under common law and don’t include ones only recoverable under the Act, such as an order to reinstate an employee provided for by s 71 (5) (a) and 71 (6) of the Act, which is not available under common law. In short, the respondent did not seek to enforce a right or obligation specifically created by *The Employment Act, 2006*, in the suit. Since the dispute did not involve recognition, observance or enforcement of any of the rights or obligations specifically created by *The Employment Act, 2006*, recourse to a magistrate’s court was open to her.

As decided earlier in this ruling, if the dispute is an employment dispute arising out of a right or liability under the general or common law and not specifically under the Act, the jurisdiction of the magistrates’ courts is not affected by any provision of s 93 of *The Employment Act, 2006.* Even where reliance must be placed on any provision of that Act, the jurisdiction of magistrates’ courts is concurrent and alternative to that of the District Labour Officer, leaving it to the election of the plaintiff concerned to choose his or her remedy and forum.

I accordingly find that, the magistrate grade one court in the instant case was clothed with competent jurisdiction to try the suit as it did. The applicant was misadvised to absent itself from the proceedings and the trial magistrate did not err in proceeding ex-parte against the applicant. In the circumstances, I do not find any merit in the application and hereby dismiss it with costs to the respondent. I so order.

Dated at Arua this 20th day of September, 2016.

 …………………………………..

 Stephen Mubiru

 Judge.