



**THE REPUBLIC OF UGANDA**  
**IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA**  
**MISCELLANEOUS APPLICATION NO.160 of 2023**  
*(Arising out of Labour Dispute Reference No. 249 Of 2014)*

**DR. DEOGRATIUS KISEMBO**.....**APPLICANT**

**VERSUS**

**ATTORNEY GENERAL**..... **RESPONDENT**

**Before:**

The Hon. Mr. Justice Anthony Wabwire Musana

**Panelists:**

Hon. Adrine Namara, Hon. Suzan Nabirye & Hon. Michael Matovu.

**Representation:**

1. *Ms. Elizabeth Nampula of Century Advocates for the Applicant*
2. *None for the Respondent*

**RULING**

**Introduction**

- [1] By motion, under Section 98 of the Civil Procedure Act Cap.71 (*from now CPA*) Order 9 Rules 22 and 23 and Order 52 Rules 1, 2 and 3 of the Civil Procedure Rules S.I 71-1(*from now CPR*), the Applicant sought an order setting aside the dismissal of LDR 249 of 2014. He asked that costs be in the main cause. In the supporting affidavit, Mr. Andrew Kamwesigye, Advocate, was deposed to having lost a brother on the 26<sup>th</sup> day of September 2023, a day before the matter was called for hearing on the 27<sup>th</sup> of September 2023. He attached a copy of the certificate of cause of death of the late David Tinkunda issued by Nakasero Hospital on the 26<sup>th</sup> of September 2023. Mr. Kamwesigye said he was consumed by grief and could not attend Court the following day. Dr. Kiseembo was deposed to being critically ill, having diabetes, hypertension, and a blood clot in the leg for which rest was recommended. He said he switched off his phones and was only reached through his wife on the 28<sup>th</sup> of September 2023, and advised of the dismissal. He attached copies of medical treatment notes from M/S Friends Polyclinic.
- [2] The Respondent did not file any affidavits in reply.

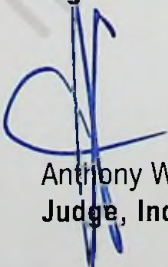
- [3] When the application was called for hearing on the 12<sup>th</sup> of March 2024, Ms. Nampula informed the Court that she had spoken to the Respondent's Counsel, who had asked for two weeks to file a reply. We granted timelines for filing replies, rejoinders, and written submissions. The Applicant filed submissions, but the file does not indicate that the Respondent has filed any.
- [4] It was submitted for the Applicant that the failure to appear in court was for good or sufficient cause owing to Mr. Kamwesigye's bereavement and the Applicant's illness. Counsel cited Order 9 rule 23(1)CPR and **Makasi Paul & 13 Others Alfred Mandala & 2 Ors**<sup>1</sup> for the proposition that nonappearance due to unforeseeable situations amounted to sufficient cause.

### **Analysis and Decision of the Court**

- [5] The short question for this Court to determine is whether the applicant has shown good or sufficient cause for setting aside the order of dismissal. The position of the law on an application such as the present one is that a suit dismissed under Order 9 Rule 22 CPR may be reinstated for sufficient cause. Sufficient cause has been defined to relate to mistakes by an advocate, ignorance of procedure, illness of a party, lapses or dilatory conduct of counsel or the party.<sup>2</sup>
- [6] From the record of proceedings, when the Matter came before us on the 3<sup>rd</sup> of May 2023, Ms. Kangume, appearing for the Applicant and holding Mr. Kamwesigye's brief, and Mr. Sam Tusubira, State Attorney, informed us that the parties were trial-ready. We fixed the matter for hearing on the 27<sup>th</sup> of September 2023. On that day, Mr. Moses Mugisha S.A. appeared for the Respondent. The Applicant and his Counsel were absent, and upon Mr. Mugisha's application, the matter was dismissed under Order 9 rule 22 CPR. The Applicant and his Counsel have explained the reasons for their non-appearance. In the circumstances of Counsel Kamwesigye's bereavement and Dr. Kisembo's illness, we are satisfied that sufficient cause has been demonstrated. Our order of dismissal of Labour Dispute Claim Number 249 of 2014 is set aside. Because the matter has resided in this Court since 2014, we direct that it is fixed for hearing on the 13<sup>th</sup> of November 2024 at 11:30 a.m.

It is so ordered.

**Signed in Chambers at Kampala this 31<sup>st</sup> day of May 2024**

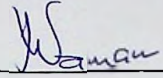
  
Anthony Wabwire Musana,  
**Judge, Industrial Court**

<sup>1</sup> H.C.M.A 0036 of 2024


<sup>2</sup> Per Mubiru J in HCMA No. 0009 OF 2017 Eriga Jos Perino vs. Vuzzi Azza Victor & 2 Ors

**The Panelists agree.**

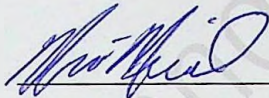
1. Hon. Adrine Namara

  
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2. Hon. Suzan Nabirye

  
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3. Hon. Michael Matovu

  
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**31<sup>st</sup> May 2024**

**9:41 a:m**

**Appearances:**

1. Mr. Mark Muwonge, State Attorney, for the Respondent.
2. Applicant and his Counsel are absent:

Court Clerk: Mr. Samuel Mukiza.

Mr. Muwonge Matter for ruling, and we are ready to receive it.

Court: Ruling delivered in open Court.



Anthony Wabwire Musana,  
**Judge, Industrial Court**

**9:48 a:m**