

TANZANIA / JUDGMENT

george nangale others vs sam kasulwa others 1998 tzhc 2029 16 november 1998

COURT
TZHCDECIDED
16 November 1998

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TN T H E H I G H C O U R T O F T A N Z A N I A D A R E S S A L A M D I S T R I C T R E G I S T R A R .
P A R J S . _ B A R , A A M C I V I L C A S E N O . 1 4 3 O F 1 9 9 8 M R . G E O R G E N A N G A L E . A N D 2 O T H E R S
R S P f . A T N T T F F ? ' V E R S U S S A M K A S U L W A A N D 4 O T H E R S D E
F E N D A N T S J u n G F . M E N T K A T . F . G E V A . J . v > * * . : y T h e p l ' a i n t i f f s . . G e o r g e N a n n i
e (1 s t P l a i n t i f f) , M r s . N a n g a l e Z . G . (2 n d P l a i n t i f f) a n d N y a n z u l a o r i g i n s T a n z a
n i a T . t . d t \ a T . m k s T r a i n i n - j C e n t r e (3 r d p l a i n t i f f) s u e d j o i n t l y a n d s e v e r a l l y ,
S a m K a s n k w a . J i m G o d w i n , E d i t o r T h e E x p r e s s , M e d i a H o l d i n g (T) L t d a n d N a t i o n a l
N e w s p a p e r L t d (1 s t - 5 t h D e f e n d a n t s r e s p e c t i v e l y) f o r d e f a m a t i o n , c l a i m i
n g a m o n g o t h e r s , ' W a l D a m a g e s o f S h i l l i n g s 5 0 0 , 0 0 0 . . 0 0 0 / = i b) I n t e r e s t o n (a) a t
4 0 % p e . a n n u m f r o m M a r c h 1 9 9 7 h o t h e d a t e O f j u d g e m e n t . , (< ■) I n t e r e s t o n t h e d e c
r e t a l s u m a t c o u r t , r a t e f r o m d a t e j u d g e m e n t u n t i l p a y m e n t i n f u l l " . T h e d e f e n
d a n t s h a v i n g f a i l e d t o , f i l e t h e i r w r i t t e n s t a t e m e n t o f d e f e n c e - ; (t h o u g h
s e r v e d) t h e p l a i n t i f f s w e r e a l l o w e d t o p r o v e t h e i r c l a i m s e x p a r t e b y a f f i d a
v i t h e n c e t h e p r e s e n t j u d g e m e n t . T n s u p p o r t o f t h e i r c l a i m s t h e p l a i n t i f f s s u b m i t t e d
t w o a f f i d a v i t s d e p o n e d b y 1 s t a n d 2 n d p l a i n t i f f s . T n t h e i r p l a i n t , t h e p l a i n t i
f f c l a i m e d t h a t o n o r a b o u t 2 0 1 !) F e b r u a r y 1 9 9 7 a t p a g e s 1 a n d 2 o f " t h e E x p r e s
s " i s s u e N o . 4 0 6 T S S N O R 5 6 - 3 9 8 S " , t h e d e f e n d a n t s j o i n t l y a h d s e v e r a l l y , f a l s
e l y a n d m a l i c i o u s l y p r e p a r e .) f o r p u b l i c a t i o n , e d i t e d , p r i n t e d » n . l r i r . M . l a t m l a n
a r t i c l e e n t i t l e d , « O v . r 1 , 0 0 0 l u r e d a s ' t , o n d o n B e . k o n * ' f o o l i s h ' a n d w h o s e c o n t e
n t s , a m o n g o h e r s " V i n o f o r l u r e

- H u n d r e d o f y o u n g T a n s a n i a n s a r e r e p o r t « f a n g f n r - • o f b e t t e r f u t u r e r e p r
o m l t t d b y c n m p u t « , n . l u s n « i n B r i t a i n . B u t o n c e t h f r e , i h e v y e t t h e — b a r
a a i n e d f o r " . M . , , T ^ r i . - , a n ; T h e c o n s p i r a c y a l l e g e d ^ r e v o l v e * a . o u n d a I " " - * " " *
c o i m l e , i d e n t i f i e d a s M r . a n d M r s . N a n g a l « , w h o r u n a s i n d e n t p l a c e m e n t
t p r o g r a m m e i n D a r e s S a l a a m o n b e h a f a b e r k s h i r e b a s e d C o m p u t e r t r
a i n i n g i n s t i t u t e . . t b e f u t u r e _ _ • . . 4 i t r e e i s ; * & ' * - B u s i n e s s C o l l e g e " T h e r e l e v a n t
a r t i c l e d s A n n . \$ t o t h e p l a i n t . T h e p l a i n t i f f c l a n , , t h a t " t h e t e n o r , c o n t e n t ,
r o a n t f e r o f h e a d i n g a n d p o s i t i o n i n t h e n e w s p a p e r a s w e l l a s i t s a c c o m p a n y i
n g r a t o o n i r d e p i c t i o n c l e a r l y i n d i c a t e m a l i d B a i m e d a t p o r t r a y i n g
(d i r e c t l y , i n i n n m e n d o a n d b y i u x t a p o s i f , i o n) ' t h e p l a i n t i f f s l a s s c h e m e r s ,

criminals, conspirators, >ildoers, totally perjured, swindlers who are unfit to hold any responsible office as well as incapable of carrying out their duties and ||rojects as contained in the r memoranda of Association be counted among and Mer efore cannot the honest, members of their f l p p e c t i v e societies", which picture they disassociate themselves | g o m h e n c e the claim for damages to make good the otherwise posit | l e i m a g e of their n a m e s which stand tarnished. Having carefully con S i d j r f i J the plaint and its annexes, and the affidavits 'filled 'in | | | p o r t t h e r e of the court is of unanimous decision that the S j f i c l e is defamatory and false. Indeed ^ t h e e X C e t ^ t S % i | 1 | article already quoted above, and other parts of the said attif j j ' p a i n t the plaint if fs, at the least, as com men , w h o l u r e s c e n t s to part with th e i r m o n e y for services which are either non existent or below the stand a r d s

- i w l l l 5 required and .X | > . n t * 1. And this can furth. r h e < l i * " . e r , r ' * other excerpts of that article whirl, run as under, " The N a n g a l « S a n d t h e c o l l » 9 « a r e c h a r g i n g t h e i r s t u d e n t s 1600 sterling (1.6 million) i n t u i t i o n f e e s p e r y e a r , b u t t h e G o o d S a m a r i t a n ' s w e a r ; t h a t t h e h i g h e s t a c o m p u t e r t r a i n i n g c e n t r e : " c . a n c h a r g e a n y w h e r e i n t h e U K i s 7 0 0 s t e r l i n g (7 0 0 , 0 0 0 / =) a y e a r . A t t h a t , w h a t t h e b e s t c o m p u t e r s c h o o l c h a r g e f o r a y e a r s c o u r s e o f i n s t r u c t i o n i s e x a c t l y w h a t t h e N . , , , g a l e s c h a r g e a s i n g l e p r o s p e c t i v e s t u d e n t i p " C o n s u l t a t i o n . « « « a l o n e * j * , , . N a n g a l e a , , l w i f e t h r o u g h t h & r l i n k s t r a i n i n g c e n t r e h o u s e d . n s i n g l e s t u d i o a t t h e S I D O t t & e l a l o n g B i b i T i t i M o h a m e d R o a d b o a s t o f b e i n g a b l e t o p r o v S e t r a i n i n g o p p n , t n n i t , e s a n d j o b s ... t h e I J K M . • u m n t i f f r ' e s i f t B i n a n r l r o s p o c t * . r * i n o n g c l e a r l y , f r o m t h e a b o v e , t h q g p l a i n t u t s « « « t h e o r d i n a r y m e m b e r s o f o u r l \$ o c k t y m u s t h a v e b e e n l o w e r e d w i t h a c o n s e q u e n c e o f b e i n g s h u n n e ^ a w a y f o r b e i n g t a i n t e d w i t h u n r e l i a b l e , d u b i o u s , a n d u n t r u s t w o r t h y c h a r a c t e r i s t i c s l e t a l o n e h e i n c l o o k e d u p o n a s c o m m e n . ' S F l o w i n g f r o m t h a t , t h e i r b u s i n e s s w o u l d n a t u r a l l y h a v e b e e n a f f e c t e d f o r n o p o t e n t i a l s t u d e n t , w o u l d a g a i n r i s k d e a l i n g w i t h a c h a r a t i t e r o f t h e a d v e r t i s e d t y p e . J ' . - J s ' r ' T h a t s e t t l e d , n e \$ w e / S h o u l d p r o c e e d o n w h a t , s h o u l d b e r e w a r d e d a s r e c o m p e n s * o r & e l o s t f a c e a n d b u s i n e s s . T h e o l a i r i t . i f f s c l a i m 5 0 0 , # , 0 0 ^ = a p a r t , f r o m I n t e r e s t . T h e g e n t l e m e n a s s e s s o r s h a v e B a l l • » • « » « v a r y i n g V i e w s i n t e r m s o f q u a n t u m . T h e y h a v e p r o p o s a l s h \$ ' 8 0 » | g 3 0 * a n d 2 5 m . T h e y h a v e a l l e x p r e s s e d v i e w s t h a t t h e e x t e n t b f t h e . P l a i n t i f f s ' t a r n i s h e d n a m e d e s e r v e t o b e e q u a l l y c o m p e n s a t e d . T h a v e c a r e f u l l y c o n s i d e r e d / t h e i r v i e w r ; a n d w e i g h e d t h e s a m e w i t h t h e s t a t u s o f t h e p l a i n t i f f s , t h e p o t e n t i a l i n b u s i n e s s a n d t h e e x t e n t o f t h e a r e a : c o v e t e d b y , t h e s a i d d e f a m a t o r y p u b l i c a t i o n a n d T h a v e c o m e t o s e t t l e o n a f i g u r e s o m e h o w b e l o w t h e p r o p o s i t i o n s o p i n e d b y t h e g e n t l e m e n a s s e s s o r s . N o d o u b t , t h e 1 s t ? p l a i n t i f f : i s a - p e r s o n o f s o u n d s t a t u s a s p o r t l a y e d i n h i s a f f i d a v i t (a h o l d e r o f a f i r s t , d e g r e e i n A g r i c u l t u r a l E n g i n e e r i n g , a m a s t e r o f s c i e n c e d e g r e e i n r e n e w

able Energy and Master of Business Administration, a Technical Manager in Equity Investment Management Ltd, Member of Board of Directors of TT B. and had held various key positions, in Ilmoja wa Viiana (new), Ki Iombero Sugarcoy, Director of the 3rd plaintiff) but his has not established how he reached at; shs. 200,000,000/= of his worthiness. Apart from the said 1st Plaintiff, the 2nd and 3rd plaintiffs have not been sufficiently proved to have a known focal attraction both locally and internationally if we put aside the link in business which was subject of the attack by the relevant, libellous article. Neither was evidence sufficiently established which shows that the 3rd plaintiff has lost business potential to a tune of shs. 150,000,000/= claimed as per affidavit and so is the case with - 2nd Defendant. * '---' s*Jm\ All in all, I am satisfied that the damage caused by the libellous article to all the three plaintiffs can be atoned by a liberal sum to a tune of ten million shillings which is hereby awarded. As observed by the gentlemen assessors the plaintiffs are also entitled to interest but, not commencing from the date when the defamatory article was published but rather from the date of judgement, and the rate is not 40% as claimed (whose basis was not established) but should be at the ruling Bank rate. Judgement is entered in favour of the plaintiffs in the terms as indicated above with costs. (I. R. Kaleye v a) JUDGE 16 \ 11 \ 98 Delivered in the presence of the plaintiffs (1st and 2nd) and Mr. Kalolo, today the 16th November .. 1.998. AT D A R E R S A L A A M, (I. R. Kaleye v a) lifciLilQXe m h f t t L i M f t v t U n G R 5

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Prepared on 28 October 2026 · Esheria