

UGANDA / JUDGMENT

Aruho v Uganda Coffee Development Authority (Civil Suit No. 46 of 2024)

[2025] UGHC 273 (25 April 2025)

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COURT
High Court of Uganda

BEFORE
Wagona, J

CASE / FILE NUMBER
Civil Suit No. 46 of 2024

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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT FORT PORTAL

CIVIL SUIT NO. 46 OF 2024

ARUHO KENNETH :: PLAINTIFF

VERSUS

UGANDA COFFEE DEVELOPMENT AUTHORITY :::: DEFENDANT

BEFORE: HON. JUSTICE VINCENT WAGONA

JUDGMENT

Introduction:

1. The Plaintiff filed this suit on 11th July 2024 seeking recovery of Ug. Shs. 52,500,000/= from the Defendant being the cost of 150,000 coffee seedlings that the Plaintiff purportedly sold and supplied to the Defendant in Kahunge and Bwizi sub counties, Kamwenge District during the September – November 2018 planting season. On 29th July 2024, the Defendant filed a Written Statement of Defence where it was contended that the Plaintiff has never supplied 150,000 coffee seedlings in Kahunge and Bwizi sub counties, Kamwenge District during the September – November 2018 planting season or at all.
2. On 10th September 2024, the matter came up for Summons for directions before the learned Deputy Registrar of this Honourable Court in the presence of learned Counsel *Kamuli Hellen* who was holding brief for Counsel *Omony Stanley* for the Plaintiff and in the absence of the Defendant's Counsel. The parties were allowed up to 26th September 2024 to

file a joint scheduling memorandum and trial bundles and the case was adjourned for last mention on 1st October 2024. The parties did not comply with the directives issued during summons for directions but the Plaintiff's Counsel attended court on 1st October 2024 when the learned Deputy Registrar forwarded the file to the trial judge for further management. By a hearing notice dated 9th December 2024, the case was fixed for hearing before me on 28th February 2025. As of 28th February 2025, the parties had still not filled any pre-trial documents and they all never attended Court. The Court then reserved this matter for judgment.

Representation:

1. As per the pleadings, the Plaintiff was represented by *M/s Stanley Omony & Co. Advocates* while the Defendant was represented by the *Directorate of Legal Services, Uganda Coffee Development Authority*.

Consideration by Court:

1. **Order 11A Rule 8 of the Civil Procedure Rules** states that; -

*****8. Compliance with summons for directions***

*The summons for directions shall be complied with within forty-five days from the date of hearing the summons for directions under rule 1 (3) and thereafter, the plaintiff shall, within seven days from the last of the compliances in the summons for directions, have the suit fixed for a scheduling conference before the trial judge.” **[**Emphasis mine**]***

1. In the instant case, the parties have since the 10th day of September 2024 failed to comply with the summons for directions in total violation of the **Order 11A Rule 8 of the Civil Procedure Rules**. On top of the non-compliance with the summons for directions, the parties have also not been vigilant with attending court. **Order 17 Rule 4 of the Civil Procedure Rules** provides that; -

***“Where any party to a suit to whom time has been granted fails to produce his or her evidence, or to cause the attendance of his or her witnesses, or to perform any other act necessary to the further progress of the suit, for which time has been allowed, the court may, notwithstanding that default, proceed to decide the suit immediately.”*

1. In my view the **Order 17 Rule 4** should be applied taking into account other principles of law so as to ensure the substantive administration of justice and that it is not a mandatory requirement under the rule, that if a party is given time to do a specific act and fails to do so, the court must go ahead and determine the suit immediately. This depends on the nature of the act that a party has defaulted on. **Order 17 rule 4** of the CPR gives the court a discretion, which must be exercised judiciously. Thus **Order 17 rule 4** of the CPR must be applied with kin regard to the facts of the matter and the interests of administering substantive justice. In this case, the parties are guilty of non-compliance with the court directives and non-attendance of court proceedings.

2. Accordingly, whereas the parties were on 10th September 2024 directed to file the pre-trial documents, namely, a joint scheduling memorandum and trial bundles, they have both failed to comply and also absconded from attending court thereby curtailing the further progress of the suit. As a result, this court is entitled to decide this suit immediately, and it is accordingly dismissed under **Order 17 Rule 4** of the Civil Procedure Rules for want of prosecution. I make no orders as to costs since the Defendant has also been non-compliant and has equally never attended any court proceeding. I so order.

Dated at Fort Portal this 25th day of April 2025

Vincent Wagona

High Court Judge

FORTPORTAL

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