

UGANDA / JUDGMENT

Nile Breweries Limited v Soroti Municipal Council (Miscellaneous Application 22 of 2024) [2024] UGHC 687 (17 July 2024)

[2024] UGHC 687

COURT

High Court of Uganda

BEFORE

Adonyo, J

CASE / FILE NUMBER

Miscellaneous Application 22 of 2024

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The Republic of Uganda In the High Court of Uganda Holden at Soroti Miscellaneous Application No. 22 of 2024 (Arising from Civil Suit No. 10 of 2019)

Nile Breweries Limited :::::::::::::::::::: 10

Versus

Soroti Municipal Council ::::::::::::::::::::

Before: <u>Hon. Justice Dr Henry Peter Adonyo</u>

Ruling

1. Introduction:

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This applicant brought this application by Notice of Motion under Sections 98 and 99 of the Civil Procedure Act, Cap 282 for orders that;

- a) The accidental slip and/or omission of costs in the final list of orders of the court in the judgement dated 12th October 2023 be corrected.
- b) The costs of this application be provided for.

2. Grounds of the application:

Allan Ogoi, an Advocate of the High Court of Uganda and all subordinate Courts, practising law with Okalang Law Chambers, the lawyer for the Applicant/Plaintiff,

well conversant with Civil Suit No.10 of 2019, deposed an affidavit in support of 25 the application where the grounds were expounded that;

- a) The Applicant/Plaintiff instituted Civil Suit No. 10 of 2019 against the Respondent/Defendant, and Judgment was delivered in favour of the Applicant/Plaintiff on 12th October 2023, a copy of which is attached and marked "A".
- b) The said Judgment gave reasons and grounds for its decision therein and included the reliefs awardable to the Applicant/Plaintiff and specifically at page 20, the said Judgment indicated that the Plaintiff would be awarded, inter alia costs as one of the reliefs in the suit.
- c) The said Judgment detailed the awards as discussed in the body of the Judgment and enumerated them as "orders" but, by omission or slip of pen, did not include the award of costs to the Plaintiff as one of the orders that had been earlier on discussed and provided for in the body of the Judgment.
- d) The Court has power under the slip rule to correct its Judgment by including what was omitted or making good any accidental slip for the Judgment to have a conclusive intent of the same.
- e) It is in the interest of justice that the omission be corrected to reflect the true intention of Judgment awarding costs to the Plaintiff/ Applicant.
- 3. <u>Grounds in opposition to the application:</u>
- The Deputy Registrar, having been satisfied with the affidavit of service dated 20 26th February 2024 deposed by John Bosco Mwanika evidencing service of the application to the Attorney General's chambers Soroti Regional Office, forwarded this file even though the Attorney General's chambers had not filed an affidavit in reply countering the application despite having been served. Therefore, the 25 application is unopposed.

4. Representation:

M/s Okalang Law Chambers represented the applicant, and they filed written submissions, which have been considered accordingly.

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5. Issues

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In his submissions, the applicant's counsel formulated an issue that he believed suffices to determine the contention. I have found it sufficient and I have adopted it.

Whether the Application raises any grounds for correction under the slip Rule? 10 6. Resolution:

This application was brought under Section 98 of the Civil Procedure Act, Cap 282 (CPA), which inherently empowers this court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court. The application was also brought under Section 99 of the Civil Procedure Act stipulates that;

Clerical or mathematical mistakes in Judgements, decrees or orders, or errors arising in them from any accidental slip or omission may at any time be corrected by the court either of its own motion or on the application of any of the parties.

It is trite that the duty and burden of proof lie with the applicant because she is the one who seeks to get a decision from this court in her favour. See: Sections

101 and 102 of the Evidence Act, Cap 6.

The main object of the instant application is that the applicant is praying that this court corrects its judgement delivered on 12th October 2023 to include costs in the final list of orders because costs were granted to the applicant (then plaintiff)

in the body of the judgment delivered on 12th October 2023. 25 I have carefully perused the judgement of this Honourable Court delivered on the 12th October 2023 that determined Civil Suit No. 10 of 2019 in favour of the applicant (then plaintiff).

On page 20 of the said judgment this Honourable Court stated that thus;

"The plaintiff prayed for the defendant to pay the costs of the suit. Section 27(2) of the Civil Procedure Act, Cap 282 (then Cap 71) stipulates that costs

follow the event, and since the plaintiff is the successful party here, I would *award it the costs of this suit.* (underlining for emphasis).

From the reading of the above holding and conclusions this Honourable Court, it is evident that an award of costs was made to the applicant (then the plaintiff). I have also read pages 10 to 11 of the judgment of this Honourable Court and I

note that this Honourable Court made its orders as a summary of its decision of 10 its judgment including what it decide on page 20 of its judgment. However, I note that on page 11 there is no paragraph e. which would have

ordinarily followed paragraph d., meaning that while at page 20 of its judgment this Honourable Court clearly awarded costs of the suit to the applicant/plaintiff,

there was accidental/slip omission of the same in the court's final orders. 15 It was an error curable by the provisions of Section 99 of the Civil Procedure Act \$(Cap 71)\$ which provides that:

Clerical or mathematical mistakes in judgments, decrees or orders, or errors arising in them from any accidental slip or omission may at any time be corrected by the

court either of its own motion or on the application of any of the parties. 20 The slip rule in Uganda is a legal provision that allows for the correction of clerical or arithmetical mistakes in court judgments or orders.

Specifically, it addresses errors arising from accidental slips or omissions. Slip rule allows for corrections to be made by the court concerned, either on its own motion or upon application by an interested party with the aim of the corrections

to align the judgment or order with the court's original intention when it was given.

Thus inadvertent errors such as typographical mistakes or omissions are rectified even after the judgment has been embodied in a decree. See: *Obiga Kania v*

Wadri & Anor Misc. Application No. 142 Of 2017. 30 In the case of *Raniga v Jivraj* [1965] EA 700 at 703, Spry JA noted that;

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- "A court will, of course, only apply the slip rule where it is fully satisfied that it is giving effect to the intention of the court at the time when judgment was given or, in case of a matter which was overlooked, where it is satisfied, beyond doubt, as to the order which it would have made had the matter been brought to its attention."
- In respect of the instant matter, my having carefully examined **Annexure "A"** 10 which is a copy of the judgement that this Honourable Court delivered on the 12th October 2023, and my having found that indeed there was an error of omission in the final orders of this Honourable Court, I do, therefore by virtue of Sections 98 and 99 of the Civil Procedure Act which empowers me to correct accidental
- slips, correct the Final Orders of the Honourable Court in its judgment of 12th 15 October 2023 to include the award of costs to the plaintiff; as the doing so correctly reflects the true intention of the court.

Consequently, for the reasons above, this application is found to have merit with the correction sought allowed because the instant application was brought to correct the inadvertent slip in the judgement of the court, with no order as to costs.

Conclusions and Orders:

This application is allowed with no order as to costs.

- a) The final orders of the court in per Paragraph 10 of the judgment of this court of 12th October, 2023 is corrected to read as follows;

"10. Orders:

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- a. It is hereby declared that the loading and offloading fees charged onto the plaintiffs through its agent M/s Tan Distributors was illegal as there was no
 - law providing for the same contrary to the Constitution and the Local Government Act.
 - b. It is hereby ordered that the defendant refund to the plaintiff UGX. 12,120,000 which it illegally levied.
 - c. The Plaintiff is awarded General damages of Ugx 8,000,000 as against the defendant.
 - d. Interest of 17.5 % per annum is awarded only on special damages from the date of filing this suit till payment in full.
- e. The plaintiff is awarded the costs of this suit. (underlined for emphasis)." I so order.

Hon. Justice Dr Henry Peter Adonyo

Judge

17th July 2024

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CASE PAGE	https://chat.esheria.ai/case-law/uganda/nile-breweries-limited-v-soroti-municipal-council-miscellaneous-application-22-of-2024-2024-ughc-687-17-july-2024-unknown-topic-unknown-court-2024--6a3ea4da3b1caa91297e69af

Prepared on 14 October 2026 · Esheria