

CL/28/29

IN THE HIGH COURT OF UGANDA AT KAMPALA

APPELLATE JURISDICTION

CIVIL APPEAL NO. 65 OF 1957

ORIGINAL CIVIL CASE NO. 124 OF 1955

of the Principal Court of Buganda at Muroso

Before Esquire.

Appellant, Original Plaintiff { Yawana Mukuza
c/o. B. K. M. Kiwamba, Adv. K'Le

versus

Respondent, Original Defendant { Buganda Government
c/o. Huntli & Greig Adv. K'Le

Date of Judgment

Date of filing Memorandum of Appeal

Date of Hearing

29/12/61

~~4/5~~ 20/12 ~~12/10~~

IN HER MAJESTY'S HIGH COURT OF UGANDA AT KAMPALA

APPELLATE JURISDICTION

CIVIL APPEAL No. 65 OF 1957

ORIGINAL Civil Case No. 124 OF 1955

of the Principal Court of Kengo

Before _____ Esquire.

Appellant,

Original

YOWANA MWKOZA
Plaintiff vs. BUM Kiwanda,
adu.

versus

Respondent,

Original

Uganda Government
Defendant. vs. Hunter & Greig,
adu.

Date of Judgment _____

Date of filing Memorandum of Appeal _____

Date of hearing _____

2/12

C.A.65/57.

30th December, 1961.

The Chief Judge,
Principal Court of Buganda,
Mengo.

u.f.s. The Judicial Adviser,
Buganda, KAMPALA.

HIGH COURT CIVIL APPEAL No.65 of 1957.
Orig. Principal Court Civil Case No.124 of 1955.

Yowana Mukuza vs. Buganda Government.

I send herewith one certified and one uncertified copy of the Order made by this court in the above appeal. The original file No.C.C.124/55 of your court is returned along with the two exhibits received from you.

J. McWHINNIE

Dy. Registrar.

RM.

By consent

To a date to be fixed

*Prokur
Registrar*

10/6/57

*H/H served upon Kusa
+ Hunter & Gray for 15/6/57*

*R Mullen
Registrar*

CIVIL APPEAL NO. 65 OF 1957.

(Original Principal Court Civil Case No.124 of 1955)

YOWANA MUKUZA APPELLANT.

v e r s u s

THE BUGANDA GOVERNMENT RESPONDENT.

ADDITIONAL MEMORANDUM OF APPEAL.

The Appellant above named being aggrieved by the Judgment of the Principal Court of Mengo given on the 13th. day of June, 1957, begs to appeal against the said judgment on the following grounds:-

1. That there was a miscarriage of justice on the ground that the case was not heard by only 3 Judges of the Principal Court as is required under Section 3 of the Buganda Courts Ordinance but by several of them some of whom were "additional judges" who went away after one sitting, and the judgment was not given by Judges who had heard all the evidence.

WHEREFORE the Appellant prays that this Honourable may be pleased to allow this appeal, set aside the judgment and order of the Principal Court and direct that the case be heard de novo before a differently constituted Court.

Dated at Kampala this 10th. day of June, 1959.

[Signature]
COUNSEL FOR THE APPELLANT.

HIGH COURT OF UGANDA

FILED BY:

FILED

6/27/59
10/10/59 12-6-59

IN HER MAJESTY'S HIGH COURT OF UGANDA AT KAMPALA.

CIVIL APPEAL NO. 65 OF 1957.

(Orig Princ. Ct.C.C. 124/55)

YOWANA MUKUZA,
c/o B.K.M.Kiwanuka, Esq.,
Advocate, Kampala Appellant.

vs.

The Buganda Government
Mengo. Respondent.

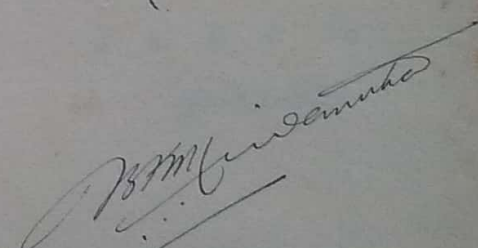
PROVISIONAL MEMORANDUM OF APPEAL.

The appellant being aggrieved by the judgment of the Principal Court given on the 13th day of June, 1957, in Civil Case No.124/55, hereby appeals against the said judgment and order on the following grounds, amongst others, that is to say:

1. The judgment was against the weight of evidence;
2. The order was bad in law and unreasonable and should be set aside.

WHEREFORE the appellant prays that this Honourable Court be pleased to allow this his appeal with costs set aside the order and enter judgment for him.

DATED at Kampala this 19th day of July, 1957.


APPELLANT'S COUNSEL.

Filed by:

B.K.M.KIWANUKA, ESQ.,
ADVOCATE,
KAMPALA.

- 1. Buganda Government
- 2. Owerre...

ORIGINAL

2/12
 H. M. HIGH COURT
 KAMPALA
 15 DEC 1961
 [Signature]

~~Not a Motion~~
 Chamber Summons

IN HER MAJESTY'S HIGH/DISTRICT COURT OF UGANDA AT KAMPALA

/s. Hunter & Greig,
 Advocates, Kla.

CIVIL APPEAL No. 65 of 1961.

/s. Kiwanuka & Co.,
 Advocates,
 Kla.

YOWANA MUKUSA

APPELLANT

versus/and

THE BUGANDA GOVERNMENT

RESPONDENT

LET ALL PARTIES concerned attend the Judge in Court/Chambers, at the Law Courts, Kampala,
 on Friday the 21st of December, 1961
 at 9.00 o'clock in the forenoon/~~afternoon~~ when the Court will be moved/on the hearing of an
 application on the part of the Appellant

That this Hon'ble Court be moved to make an order sending the appeal back to the Principal Court for a re-trial, on the strength of the letter dated 9th. March, 1960 from the Registrar of the Principal Court of Mengo.

DATED this 20th day of December, 1961, at Kampala.

This summons was taken out by Kiwanuka & Co.,
 counsel for the Appellant.

[Signature]
 Deputy Registrar/Resident Magistrate.

GPUP-1581-20M-6-61. (P1. 28).

c.c. Messrs. Kiwanuka & Co.,
 Hunter & Greig, Advocates,
 P. O. Box 26, Kampala.

/MK

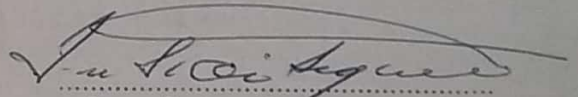
H. M. HIGH COURT
 RECEIVED
 17 MAR 1960
 KAMPALA

application on the part of **the Appellant**

That **this Hon'ble Court** be moved to make an order sending the appeal back to the Principal Court for a re-trial, on the strength of the letter dated 9th. March, 1960 from the Registrar of the Principal Court of Mengo.

DATED this **20th** day of **December**, 19**61**. at Kampala.

This summons was taken out by **Kiwanuka & Co.**
counsel for the **Appellant.**


Deputy Registrar/Resident Magistrate.

Telephone _____

KABAKA'S



GOVERNMENT

Telegraph _____

Department of Omulamuzi

P. O. Box 14168

Mmengo.

In any future correspondence
on this subject please quote

Ref. No. C. A. 124/55

9th March 1960

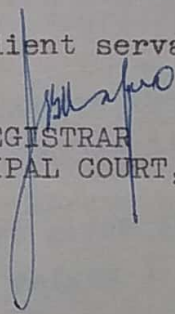
The Registrar,
H. M. High Court of Uganda,
P. O. Box 85,
KAMPALA.

Sir,

Civil Appeal No. 124/55
Yowana Mukusa vs. Buganda G. J. Another.

With reference to your letter No. C. A. 65/57 of
15/2/60. I return herewith this Courts original record
and have to state that more than three Judges heard this
case.

I have the honour to be,
Sir,
Your obedient servant,


REGISTRAR
PRINCIPAL COURT, MMENGO.

c.c. Messrs. Kiwanuka & Co.,
Hunter & Greig, Advocates,
P. O. Box 26, Kampala.

/MK



Principal Court Civil Case No.124/55.

Yoanna Mukuza PLAINTIFF.

v e r s u s

1. Buganda Government }
2. Owaggombolola Mut.l. Kiad. } DEFENDANTS.

--- o o o ---

C L A I M : } Breaking down the plaintiff's work-shop and thereby causing him loss of Shs.8767/-.

P L A I N T.

Defendant No.2. issued an order on the 15.1.53 authorising M.M. Lubega to ~~confiscate~~ ^{attach (confiscate)} my bicycle and my timber which were in my workshop for the payment of his rental dues of Shs.117/88. The order now in my possession was executed after I had lodged an appeal to the Saza Court together with 10 other people (friends of mine), and when we had already paid the appeal fee at the Ggombolola in the Names of Yosis Musisi who represented us all.

2.. Defendant No.2..sent men to remove the roof from my workshop on the 18.9.53 whilst I was in prison. Un-doing my roof was never mentioned in the order I hold.

3.. Defendant was acting for behalf of the Buganda Government the first defendant.

4.. The loss incurred by the breaking down of the shop was Shs.3187/- plus property worth Shs.5580/- makes it Shs.8767/-..

WHEREFORE I pray that this Court gives judgement against the defendants and order that they pay (refund) :-

- (a) Shs.8767/-
- (b) " Damages.
- (c) Court fees.

sd. Y.K. Mukuza.

PLAINTIFF.

sd. Y. K. Mukuza..

PLAINTIFF.

MENGO BUGANDA.

Principal Court Civil Case No. _____ of 1953.

Yawana Mukuza PLAINTIFF.
v e r s u s
The Ggomb. Chief Mut.1. Kyaddondo ... DEFENDANT.

P L A I N T . .

1. I, the plaintiff, am a Muganda by birth. I am a carpenter at Ngalanye, Ggomb. Mut.1. Kyaddondo.
2. The defendant is a Ggombolola Chief. He is Mut. 1. Kyaddondo. at Nangabo.
3. I sue him for in his capacity as a Ggombolola Chief, issue an order to un-roof my workshop at Gayaza Station (un-lawfully) and thereby causing me property worth Shs.3187/- together with other losses incurred ever since my workshop was un-roofed and all the time that it will remain un-roofed. I have listed these losses bellow;-
4. 1. On the 15.1.53 defendant issued an order alleging that one Mr. M.M. Lubega who had sued me together with 11 others on behalf of D. Serwaniko Kaggo with regards to the rental dues of the workshop at Gayaza. He had applied for an attachment of the following of my goods :- Bicycle (b) timber in the workshop to be sold for the recovery of Shs.117/68 the rental dues. A copy of this order was sent to me.
 - (2) At the time when this order was issued, the case is referred to had already been appealed to The Saza Kaggo's Court Kasangati, and the appeal fees paid to the Ggombolola Chief the defendant in the names of Yosia Musisi who pleaded the case on his and our (11) behalf..
 - (3) On the 18.9.53 the defendant sent his representatives who came and removed the roof from my workshop at Gayaza at 10 o'clock a.m. and took me together with the corrugated iron sheets to the Ggombolola. I a prisoner. All my tools etc; were left in the workshop (un-looked-after). This act of removing my roof was just contradicting the order made on the 15.1.53 which had allowed the attachment of my bicycle and timber. In taking the corrugated iron sheets, the cycle and timber were not touched..

The following is the loss incurred :-

5.	(1)	(a)	C.iron sheets (whole and pieces 384 ft - purchased @ 3/50 per ft in 1949	Shs.	1344.0
		(b)	6 ridges " 8/- each		48.0
		(c)	Damages done to the building by removing the roof, su rain etc. 30ft x 20ft double-roomed		1000.0
		(d)	I had engaged 4 fumdis @ 150/- p.m. who had worked for 17 days (paid them)		260.
		(e)	Porter who kept watch for 7 days @ 5/-		35.
		(f)	My tools together with those of my fumdis snatched during the turmoil		500
					5187

T O T A L

6.. When I was taken a prisoner before the defendant I told him how brutally Yokana Mukasa had treated me. The Ggombolola C. Mut. Kyad told me that he had personally executed and ordered the removal of the roof from my workshop. He then put me in prison alleging that I had committed a criminal offence in asking for representatives to safe guard (carry out) the Ggombolola Chief's order of the 15.1.53.

7.. I pray that this Court gives judgement against the defendant and to be ordered to pay me all damages as set out in para 5 together with all other expenses incurred in this suit together with Court fees and travelling expenses..

Signed with my hand to day the 12th. October, 1953 at N galamye, Kyaddondo..

sd. Y.K. Mukuza.
PLAINTIFF..

Mmengo..
Buganda..
18.Sep.1956.

IN THE PRINCIPAL COURT OF HIS HIGHNESS THE KABAKA.
Civil Case No.124/55..

Yowana Mukuza ... PLAINTIFF..
v e r s u s
1. Buganda Government
2. Ggomb. Ch: Mut.1. Kiad: ... DEFENDAT..

----- 0 -----
List showing how I arrived at Shs.3187/- as set out in para 4 of the plaint..

		Shs..	cent
1.	@ fundis took Shs.65/- for the remaining 13 days of the month	260..	00
2.	My tools were worth	1066	00
3.	The tools of my fundis were worth	566	00
4.	7 Lorry loads of timber @ 150/- each (pices)		
6.	Transport @ 35/- per safari for the 7 safaris	245.00	
T O T A L		3187..	00

sd. Y.K. Mukuza.

18.9.56..

Mmengo.
Buganda.
9. Sept. 55.

Plaintiff is present in Court. He even attended the Court the whole of yesterday but the defendant did not appear yeaster not today. We do not know whether summones had been issued as they are not seen in this file, neither was this defendant informed that he had been authorised by The ministers of the Buganda Governmen to plead on behalf of thd Government vide The Hon. The Katikiro's letter No. J. &. of 22.6.55. Summons to issue with a copy of the plain to be issued for the defendant to attnd the Court on the 21.11.55.

sd. Mn. Nakedde.

Mmengo.
Buganda.
21. Nov. 55.

The plaintiff together with the defendant the Gombolola Chief Mut. l. Kyaddondo. are present in Court.

s. Sendagire. J.

On entering into this case we haave discovered that the plaintiff sued 2 defendants in this case i.e. No.1. Buganda Government and No.2. The Gombolola Chief Mut. l. Kiad: which was not correct. We order that the plaintiff corrects his plaint as set out in the Minist ers' letter. The case is adjourned to the 11.1.56.

sd. M.B. Nakedde. J.

Mmengo.
Buganda.
11. Jan. 56.

Both parties present in Court.

XX by Court to plaintiff.

- Q. Have you corrected you plaint as adviced in the minute of the 21st. November, 1955 ?
- A. No I have not changed it as the defendant No.1. is the one who issued the order whereby my workshop had been pulled down. And the defendant No.2 instead of following the order given to him, pulled down my building (workshop).

sd. Y.K. Mukuza.

sd. M.B. Nakedde. J.

O R D E R.

As it is clear that the plaintiff failed to follow the advice given to him on the 21st. November, 1955's minute we have arranged to go foraward with this case.

sd. M.B. Nakedde. J. PRESIDENT.

s S. Sendagire. H. MEMBER.

" ? ADD. J.

I, the plaintiff do hereby confirm the plaint read out here in Court which I caused to be typewritten, to be correct and beg to add: - (d) To re-build my workshop as it was before.

sd. M.B. Nakedde. J.

XX by defendant to plaintiff.

Q. I have heard you say in your plaint that sue both the Buganda Government and the Ggombolola C. Mut.1. Kyaddondo. Who is the defendant No.1. who you refer to as the Buganda Government ?

A. I have faifed (Iam un-able) to answer that questuin.

Q. I have heard you say that the order to attch your property had been issued after you had appealed in the same case (whereby your property had been attached) ; can you produce receipts whereby you paid appeal fees so as to convince the Court; also can you state the number of that appeal ?

A. No. I have'nt got the receipt neither can I produce the number of the appeal because I have'nt got it .

Q. You have said that I did not follow the order which had been passed by the Court in attaching your property, but that I acted otherwise; ~~do~~ dont you know that the order I followed was the one ~~xxx~~ made and that it was made in compliance with the application submmitted in by the then plaintiff who had won the case dated the 25th. November 1952 signed by Moses Lubega ?

A. No. The order of the Court which I hold refers to conficicating the bicycle and timber but h ot to pulling down the roof of my workshop.

XX by Court to plaintiff. sd. Y.K. Mukuza.

Q. When we were about to enter into the case... The case is adjourned to the 21.2.56 pending further XX bt defendant to plaintiff.

sd. S. Sendagire. J.

Mmengo. Buganda. 2.Feb.59.

Plaintiff is present but defendant has not attended neither have the summons been returned. New summons to issue that they attend the Court on the 23 March. 1956.

sd. M.B. Nakedde. J.

Mmengo. Buganda. 23. March. 1956.

Both parties present.

Further XX by pdefendant to plaintiff.

Q. Dont you know that in civil cases if a person wins a case and the loosing side fails to somply with the order of the Court, the winner is allowed to trace the looser's property which is attached and sold for the recovery of the claim ?

A. I do not know that. I have remembered now. The laws authoris the winner to nonficicate the looser's property and to submmitte a copy of the list of things attached to the looser-to-safe-guard-his-goods for his information.

Q. If the person whose property is to be confiscated hides the property which is to be confiscated and if by luck the person who attached them discovers them and informs the authorities on duty; and if then those things discovered are confiscated together with others, is there any harm in that?

A. There is a lot of harm if those things were not previously included among those applied by the winner for attachment.
sd. Y.K. Mukuza.

sd. M.B. Nakedde. J.
The case is adjourned to the 25.4.56. pending XX
by Court to plaintiff.

Mmengo.
Buganda.
25.Mar.1956.

Both parties present in Court.
Owing to hearing may criminal case this case has not been heard.
It is therefore adjourned to the 28.5.56.

Mmengo.
Buganda.
28.May.1956.

sd. M.B. Nakedde. J.
Both parties present.
XX by Court to plaintiff.

Q. When we were about to enter into this case we have been informed that the defendant ever since he had been appointed Additional Judge in this Court he has not prepared himself for this case as he did not come with his files. He has therefore prayed for an adjournment. Allowed. The case is therefore adjourned to the 15.6.56.

Mmengo.
Buganda.
15.June.56.

sd. M.N. Semugenze. J.
Both parties present. This case has not been heard owing to the hearing of criminal case No.136/56. The case is therefore adjourned to the 23.7.56.

Mmengo.
Buganda.
23.June.56.

sd. M.B. Nakedde. J.
The plaintiff has attended but the defendant has not though he was on the 15.6.56 informed of date. Summons to issue for the defendant to attend the Court on the 20.8.56.

Mmengo.
Buvanda.
20.Aug.56.

sd. M. N, Semugenze. J.
Both parties present but the case has not been heard owing to the number of Judges being in-complete. Adjourned.24.8.56.

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- A. The correct one is being in prison which he made near where I am.
- Q. In your plaint you gave out the sums of things that you lost together with Shs.5580/- damages; can you explain how you came to such loss ?
- A. That is the sum I would have received during the time I spent drafting the plaint.
- Q. What were the 32 C.I. Sheets and 32 pieces together with the ridges worth ?
- A. Every sheet cost 3/50 per ft and 8/- per ridge. That makes it Shs.1392/-.

sd. Y.K. Mukuza.

The case is adjourned to the 27.8.56 owing to the elapse of time. The plaintiff is to bring the order on the 7.1.53. (The order of the 7.1.53 is The Ggombolola Mut.l.'s letter informing the plaintiff that the representatives of the Lukiko would go to confiscate his property especially his timber. The letter is taken as Ex: No.2.)

- Q. This letter seems to refer to the order issued in C.C. NO. 12/52 which had been forwarded to you; why did you not bring that order ?

- A. I have brought them but they are not in order.

sd. Y.K. Mukuza.

The case is postponed to the 18.9.56 pending plaintiff's production of a list of things taken from him. The defendant has not attended. It is understood that he is the Mut.l. Kyaggwe now. Ssummons to issue that he attends the Court on the 19.10.56.

sd. P. Kanya. J.

- N.B. The defendant has arrived late.

sd. P. Kanya. J.

Mmengo.
Buganda,
19.Oct.56.

Both parties present. The defendant has prayed for leave to cross-examine the plaintiff with regards to the list of things.. XX by defendant to plaintiff.

- Q. I have observed that you have submitted 3 plaints in this case and that all three do not agree. The first one was sent to me vide The Omulamuzi's letter No.49 of 21.10.53 which you failed to date. In that plaint in para 1.(e) you consented to having left your property in your porter's care whom you used to pay Sgs.5/- per month day until you found out a suitable place to keep them. In your second plaint, in the answer to the questions put to you by the Court you said that you left the things with me and that was why you sued me. In your third plaint which was sent to me by this Court in which you stated the value of your lost property of 18.9.56 you mentioned timber which had been transported by 7 lorries, which you never mentioned in your previous plaints. Is your case therefore against the Bug Gover: fabricated ?

A. My statement is not fabricated. Para 1 (e) of my first
 plaint was not correct, because I could not engage a porter
 to look after my things when I was in prison. I made that
 statement when I was in prison. The second of the 18.9.56
 is not a statement at all. The Court asked me for a list
 of damages I had under-gone, and I gave them that.

Q. As you made your second statement at your leisure
 why did you not mention therein your losses together
 with their respective value and await to be asked for them in
 Court (if at all you are not merely fabricating this case) ?

A. I thought that the Court would know them.

sd. Y.K. Mukuza.

Plaintiff present in Court sd. J. Nabamba, J.

XX by Court to plaintiff.

Q. On the list showing your damages, you at first show that
 four fundis took Shs.65/- each for the remaining 13 days
 of his wages which makes it Shs. 260/-; did you make an
 agreement with these fundis whereby they were entitled
 to claim wages for days un-worked. ? Will you produce
 that agreement if any ? What was the wages of each porter
 per month ?

A. I Have'nt got the agreement, but because they were my
 employees, they want me to pay them. I used to pay them
 at the rate of Shs.150/- per month each, but I have no
 proof to this as all the record was destroyed in the
 workshop when it was pulled down, by the Ggombolola Mut.1.

Q. How is this Court to ascertain that you owned the tools
 which you say were worth Shs.1664/- ?

A. As I was a carpenter, I had to be with such tools as my
 workshop was a large one.

Q. Have you got any proof to show that you used to keep
 your fundis' tools as well ? (worth Shs.566/-)

A. I have got no written proof, but the fundis used to keep the
 in my workshop, because they could'nt come with them every
 day and go back with them in the evenings.

Q. Did these fundis authorise you to claim their lost tools ?

A. No. They did not.

Q. What proof have you got as to the Shs.1050 which you allege
 to have paid for timber transported by lorry on 7 safaris
 and how far did you take them ?

A. I have no proof, because I got the lorry from the taxi park
 and after I paid him, he went off. I brought the timber
 10 miles off but we did not ~~calculate-it~~ arrange it (the
 price) per mile, he just nominated one sum of Shs.35/-
 per safari, that is why I paid him Shs.245/-.

Q. The attachment warrant shows the amount of C.I. Sheets
 confiscated together with the ridges but as these things
 are not mentioned thereon, how is the Court to be convinced
 that they were really destroyed ?

but that statement was not read out in Court so as to give me a chance to cross-examine him.

In his second statement (plaint) which was un-dated and which was sent to me under this Court's letter No.C.C.124/55..This statement does not agree with the first one and neither did he quash (set-aside) the first one. I therefore wish that the Court takes the two statements as the plaintiff's complaints, because in the questions put to him with regards to his second statement, he said that he left his property with me, whereas they were left entirely with him as he confirmed it when he said that he had even hired a porter at the rate of Shs.5/- a day to look after them.

The sums set out in his third statement/^{of 18.9.56} (plaint) prove that his statements are all merely fabricated, as they do not agree with those shown in the first complaint in which no mention of the 7 timber safaries is made. And to show that his statement is all fabricated he does not mention what the timber were, either Nkoba, Mivule, Misizi or other trees.

For the undermentioned reasons it is clear that the plaintiff made up, up case just to get or cheat the Buganda Government :-

1. He sued M. Lubega for D. Sserwaniko. He was served with summons on the 12.9.52 to attend the Court on the 25.9.52 which he received but failed to attend the Court. The case was decided against him Ex-parte.

2. On the 7.10.52 he was informed that he had lost the case and was advised to pay Shs.112/50 together with Shs.5/- Court fees and travelling expenses. That is to pay Shs.117/68 in all but he refused to do so, neither did he apply for a re-hearing of the case, nor appeal to higher Courts..

3. In his letter of the 26.11.52 the plaintiff's master applied for an attachment of the plaintiff's following goods :-

- (a) His workshop c.i. sheeted together with its doors.
- (b) All timber in the workshop.
- (c) His bicycle.

He also paid Shs.12/- on receipt No.21652 of 16.12.52. I pray that that letter be taken as an exhibit, because it was because of that letter that the Ggombolola Mut.l. attached the plaintiff's workshop in this case. He was warned from the 7.10.52 (Rec.No.1702/1/52) up to 15.9.53 (rec; No.2209.1.53) for a period of one full year until his workshop was confiscated 'attached' owing to his lazyness, and contempt. Even after his c.iron sheets had been attached, he was given one month's grace to redeem them before they were put to auction, but he refused to take the trouble, up to the the 16.12.53 when they were sold for Shs. 265/- found on the form in this case file

The plaintiff's master was paid Shs.204/68 together with the claim, court fees, and travelling expenses, together with the money he had paid to the porters who removed the sheets from the workshop, and the Shs.52/32 lorry fare which conveyed them to the Ggombolola. The balance were given to him but he refused to take them, and they were therefore kept under cover of Form No.21652 of 16.12.53.

Sir, I have been using Motor Car No. UFP.118 all the time I have been coming to Court, I would therefore pray that the plaintiff pays me travelling expenses together with food allowance. I take meals of Shs.15/- tea inclusive.

sd. Yokana Mukasa. for Buganda Government.

XX by plaintiff to defendant.

Q. You say that my first statement was un-dated, dont you remember that it was dated the 23.3.55, and that I confirmed it before this Court, and that it was in that statement that I prayed that if you lost the case you be ordered to re-build re-build my workshop, and that that was my only true plaint ?

A. That is not correct. I have already mentioned your first statement, (in my defence). It was un-dated and it is in this Court. I retained a copy of the Omulamuzi's letter which forwarded it to me.

Q. I have heard you say that I have got another statement of the 18.8.56, dont you remember that this Court asked me for an explanation as to how I came to such loss, and I wrote-down made a list showing that my losses amounted to Shs.3187/- confirming my true statement of the 23.3.55 in its para 4 ?

A. That was in your defence. Any person in prison can easily entrust his property with some one for prisoners can also write things when in jail.

Q. Have you got any proof to show that I entrusted my property with any body ?

A. Your statement which I have above mentioned is enough.

Q. You say in your statement that I intend to cause losses to the Government because of the summons of the 12.9.52. Dont you remember that the case had already left your Court (Mut.1. Kyaddondo) on the 22.7.52 vide receipt No.21/46 paid in the names of Yosia Musisi as stated in my statement ?

A. The case you refer to involved many defendants, including Yosia Musisi who paid off his debt and then appealed to the Saza. But your case did not as far as the Saza. Yours was a saperate case file, and you never appealed to the Saza.

- Q. The letter from Moses Lubega of the 26.11.52 which you refer to in your statement which he wrote to you requesting you to confiscate my property, which you take to be the order, and which you want to show to this Court; why do your other letter which are in this case file, and taken as exhibits, differ from that one ?
- A. It was from the application made by the person who had sued you shown in that letter, that I confiscated your property.
- Q. Dont you remember that The Court held by the Ggombolola Mut.1. Kyaddondo passed an order to ~~attach~~ only my bicycle and timber but not to pull down my workshop. And that the order of the Court (above-mentioned) is in this case file as an exhibit ?
- A. I was the President of the Court. The Court complied with the plaintiff's prayer. The plaintiff disputed the order hence it was not followed. I gave you a copy of the Court's order, which was followed to the very letter.
- Q. You say that it was Lubega who applied for the breaking down of my workshop, was it the same Lubega who applied for my imprisonment ?
- A. Lubega never applied for your imprisonment, it was because you fought with the Lukiko representatives who had come to confiscate your property, by throwing sticks at them, that you were arrested and brought to the Ggombolola. You were not put in jail, because I released you and asked you to return to your home, whereby you refused to go until when your brother came for you and went away with you without any bail. That case still exists in Court. I can prove that you did not enter the jail as no remand warrant was issued neither is your name found in the prison register nor anything about your being imprisoned mentioned in any of our statements.
- Q. You say that I was not sent into jail and that my name was not entered into the prison register, dont you remember that on the 18.9.53 I was entered in the prison register Kasangati and later released on bail, and that on that very day the c.i. sheets of my workshop were removed ?
- A. The sheets were un-~~refee-~~ roofed in your presence, and you were brought along with them to the Ggombolola after you had fought with the Court's representatives. I know nothing of what took place at the Saza. What I have said is what took place at the Ggombolola where you were arrested but I know that I sent you to the Saza. You were not escorted with a remand warrant neither were you detained at the Saza that day.
- Q. You say that I am after getting money (cheating) from the Buganda Government, would I have complained had you taken only the timber and bicycle mentioned in the order ?

A. I have already said in my statement that you were warned as from the 7.10.52 up to 16.12.53, but you refused to put the matter before the Court nor pay what was ordered you to pay, I therefore complied with the plaintiff's application (prayer).

sd. Yokana Mukasa.

sd. P. Kanya. J.

XX by Court to defendant.

Q. The plaintiff says that his property had been confiscated in his absence, when you had sent him in prison; can you prove that he was present ?

A. Yes, the representative, Sabaddu, Yoana Serunjogi, together with The Deputy Ggombolola C. Erisa Kivu and the askari Copl. Yowana Kimperembe and the Court clerk Fraciciko Musoke were the persons who confiscated his property and it was them that he fought (together with many other)..

Q. You said that the plaintiff's c.i. sheets fetched Shs.265/-; were the bicycle and timber not sold ?

A. It was only the c.i. sheets that were confiscated together with the ridges, the cycle and timber were left with him together with the (his) carpenters with whom he was working at that hour. Around 1 and 2 o'clock p.m. I was'nt present.

Q. Can you produce the letter of the 26.11.52 from Moses Lubega ?

A. Here it is. (The Court has seen the letter and taken it as exhibit No.3.)

Q. Can you produce the Omulamu i's letter whereby the plaintiff had been forwarded to you ?

A. Here it is. (The Court has seen it and taken it exhibit No.4 and returned it to the owner. It is dated 21.10.53 and numbered C.49)..

sd. Yokana Mukasa.

sd. ?. Add. J.

The case is adjourned to the 18. 3.57 pending the defendant's witnesses :- Yowana Serunjogi Erisa Kiviri, Yowana Kimperembe Kayemba Copl; Frasisiko Musoke of Nangabo, Ggombolola Mut.1. Kaid:

sd. ?. Add. J.

Mmengo.
Buganda.
18.3.57.

Both parties present. The defendant's witnesses have not appeared in Court neither have the summons been returned Ssummons to issue for the witnesses the defendant had volunteered to take them. The case is adjourned to the 29.4.57.

Mmengo.
Buganda.
29.4.57.

Plintiff is present but defendant has not attended. The witnesses Nos. 1.2. & 3 have come and we have decided to take their evidence :- This is witness Yowana Serunjoge's sworn evidence :- I live at Katadde in The Ggombolola of Mut.1. Kyaddondo. I am the Muluka C. since 12 years ago. I know the plaintiff. I went to his workshop as a Ggombolola Mut.1.'s representative. I do not remember the date. I was escorted by the Ggombolola deputy Erisa Kiviri and the court clerk Frasisiko Musoke and the Askari Yowana Kimperempe. We had gone to conficicate the plaintiff's proerty in respect of the dept due to his land lord the Saza C. Kaggo. We had received an order from the Saza Kaggo requesting the conticication of the plaiinti-ff' s c.i. sheets on his workshop (only). We un-roofed the c.i.sheets. ~~The Saza Kaggo's re~~ with the aid of the fundis who had come from the Saza with the Saza representative. We took them to the Ggombolola where they were kept for 2 months on advertisment and latter sold in auction. The plaintiff was present on the day we conficicated his property together with 3 of his fundis. When the fundis were on the roof of the workshop pulling offthe c.i. sheets, the plaintiff came out of the workshop and threw sticks at them. I stopped the plaintiff from fighting but to pay the money owing by him, but he ignored my advice and went on throwing sticks to the fundis. The Deputy Ggombolola ordered his arrest. He was tied with ropes until the un-roofing was completed. He was then taken along with the c.i. sheets to the Ggombolola, a prisoner. I do not know whether the prisone was taken to jail because when I depeited the c.i. sheets at the Ggombolola, I went back to my home. It was only after about 5 days that I returned to the Ggombolola. I did not find the plaintiff among the prisoners.

sd.. Yowana Serunjogi.

sd. ?. Add. J.

XX by plaintiff to witness No.1..

Q. Is your formular in civil cases for the Court to firsst issue a notice to warn the person in question of the contemplated conficication ?

A. Yes. I know that he is first warned.

Q. Was such a notice shown to you bafere you came to conficicate my proerty ?

A. Yes. I saw it and it was from that notice that we came.

Q. What was set out on the notice for conficication ?

A. To un-roof your workshop.

Q. Is it in your proeedure that if you dont find the things stated on the attachment warrant that you take what-so-ever you find (available) or go back to the Court and inform them that you have failed to find the prescribed things, as it was in the case of the Notice of the 15.1.53. exhibit 1 ?

A. That is not the procedure but the Notice I ^(received) saw ordered me to confiscate your c.i. sheets, but it was'nt this one read out in Court now.

Q. In your statement you say that you were the Ggombolola (in the capacity) of a Ggombolola representative, and ^{again} that the order was issued by the Saza C. which of the two statements is correct ?

A. The correct one is that the order was issued by the Saza C. I read through it and discovered that the claimant had applied for the confiscation your property. It referred to a c.i. sheeted house, and it was that house that we un-roofed..

sd. Serungogi.

sd. P. Kanya. J.

This is the defendant's second witness Erisa Kiviri's sworn evidence :

I reside at Kiteezi Ggombolola Mut. 1. Kyaddondo. I am a trader.

I was formerly the deputy Ggombolola Mut.1. Kyaddondo up to 1955. I know both parties well. I started seeing the plaintiff as from 1952 and 1953. There came an order from The Omulamuzi Mmengo ordering the confiscation of the c.i. sheets on the plaintiff's workshop. It took us some time to find the plaintiff as he was having vision even though notices were pasted every where. When he was discovered, the c.i. sheets were removed from the workhouse. I was present on behalf of the Ggombolola C. together with the Muluka Mut.11. in whose jurisdiction that part is and The Ggombolola representative (Court's) The Muluka Sabaddu (name forgotten) together with the Court clerk Frasisiko Musoke and Copl. Kimperembe and the Mutongole C. over the village Gayaza where the plaintiff lives. The plaintiff was also present together with his 3 men with whom he works. A notice was first sent to the plaintiff by the Ggombolola Mut.1. Kyaddondo before we went to confiscate his property informing him of the date when we would arrive. We found that very notice pasted on the door of the workshop. It was stated in the notice that we were to confiscate the c.i. sheets, which the defendant had applied for confiscation. I read through that notice together with the Omulamuzi's letter. The fundis who came with the claimant (whose name I have forgotten) were the persons who un-roofed the building. When they had just started to un-roof the house, this plaintiff began to throw stones and sticks at them, and to beat the rest of us together with the Lukiko (Ggombolola) representatives. I ordered his arrest and he was tied with a rope until the whole house had been un-roofed. As the workhouse had doors, we allowed the plaintiff to lock his them whereby we took him to the Ggombolola together with the c.i. sheets. We left the plaintiff's property in the care of the (his) men with whom he was working and the others who live in that workshop. On arriving at the Ggombolola he was released by the Ggombolola C. and allowed to go back to his house, saying that he would later charge him with fighting (with the Lukiko representatives). The

We arrived on the scene and found the plaintiff present together with 3 other persons with whom he works in the workshop. They were with sawa and other tools. There were also plaintiff's people who live there and keep watch over the place. The order for the un-roofing of his workshop was read out to him, together with his doors. Before the c.i. sheets were pulled down, the Ggombolola C. present asked the plaintiff to pay the claimed sum so as to save the un-roofing of his house, but the plaintiff consented to the un-roofing saying that he had no money to pay. A fundi whom I do not know where he had come from climbed the workshop to start the un-doing. At that time the plaintiff threw sticks (wooded) which were in the workshop, at the fundi. The Ggombolola C. ordered me to catch the plaintiff. I did not and tied him up with a Kiganda rope. One of his men came and cut the rope into two and ran away. The fundi carried on with the un-roofing and completed his work with the plaintiff stating there. He was not tied up because he had left off fighting. Any person would be telling a lie in saying that the plaintiff beat other people as we well. He only beat the one on top of the house. We un-roofed only the c.i. sheets leaving the doors un-touched. The house owner the plaintiff locked his house and ordered his children and men to watch the place, as we were taking him along with us to the Ggomb: because of the fighting he had done. We did not pull down the house because the plaintiff claimant (Saza C.) had applied for only the confiscation of the c.i. sheets. We found the Ggombolola C. in person at the Ggombolola. The now defendant then ordered the plaintiff to go back home saying that he would charge him with the case for fighting latter but that presently he would not even enter him on remand in the prison register. As we had't a prison, I accompanied the plaintiff to the Saza prison as he had refused to go back to his home when he was asked to go back home. He spent about 5 minutes in the Saza prison when his people came and took him off before a remand warrant was issued (because on arriving at the Saza I had taken him straight to prison). The plaintiff's c.i. sheets were kept in the Ggombolola store where they were kept for a certain time on advertisement and latter sold by public auction. I was present when they were sold but do not remember the sum derived from them, though it was enough to cover the debt (claim)

R.T.M. Yowana Kimperempe.

sd. P. Kanya. J.

XX by plaintiff to witness No.3.

- Q. Dont you remember that when we reached the Saza h/q you told the Sgt. that the Ggombolola Mut.1. had ordered my imprisonment whereby I was put in prison ?
- A. I never told him so.

R.T.M. Yowana Kimperempe.

sd. ?. Add. J.

BUGANDA KINGDOM.
IN THE PRINCIPAL COURT OF HIS HIGHNESS THE KABAKA OF BUGANDA MENGO.

Principal Court Civil Case No.124/55.
Ggomb. Mut. Kyaddondo's Court C.C. No.12/52.

Yaanna Mukuza PLAINTIFF.

v e r s u s

Buganda Government
per Ggomb. C. Mut.1. Kiad : DEFENDANT.

=====

C L A I M : ➔ Pulling down the plaintiff's workshop
and thus causing him loss of Shs.8,767/-.

J U D G E M E N T .

The plaintiff Yowana Mukuza in his first statement (plaint) of the 12th. October, 1953 sued the Ggomb. Mut.1. Kyaddondo for un-roofing his workshop in the Gayaza junction Kyaddondo on the 18th. September 1953 when the plaintiff was in prison and that because his property was left scattered about (without any one to look after them) he lost property worth Shs.3,187/-.

The plaintiff quashed that statement on the 19th. October 56 in answer to the questions put to him by the defendant, where he said that that statement was not correct because the allegation ~~that he~~ in para 1(e) whereby it is stated that he appointed porters to look after his property was not correct as he could not appoint porters when he was in prison.

In the plaintiff's second statement (plaint) made in his own hand of the 23rd. March, 55 ~~the~~ he sues the Buganda Gover: together with The Ggomb. C. Mut.1. Kyaddondo for breaking down his workshop and thereby causing him loss of Shs.3,187/- together with other extra losses of Shs.5580/- making a total of Shs.8 767/-.

That the Ggomb. Mut.1. issued an order in C.C. NO.12/52 in his Court and gave it to Mr. Moses Lubega to confiscate his bicycle and timber which were in the workshop, for objecting to pay rent of Shs.117/88. That order was issued after he had appealed to the Saza Kasangati together with his 11 others friends, and the appeal fees were put down (receipted) in the names of Yosia Musisi on behalf of the others. The plaintiff does therefore not hold an appeal receipt. On the 18th. September, 1953 the Ggomb. C. Mut.1. Kyaddondo sent his representatives who un-roofed the plaintiff's workshop while the plaintiff was in jail. What I mean by prison is where his workshop is, because when he explained to the representatives that they had to follow what was stated in the order, he was immediately arrested. The taking the c.i. sheets was not mentioned in the order. He then applied to this Court (prayed) that in case he wins the case, he be paid compensation, Court fees refunded, and ...

and his building re-built.

In that statement (plaint) he begged that he submitted a list of losses incurred because they had not been taken in at the first. He thereby produced a document dated the 18th. Sept:56 which explains his plaint in para 4. That document reads as follows:

- (1) 4 fundis paid Shs.65/- for the remaining 13 days (to make up a full month) = Shs.260/-. Those fundis used to take Shs.150/- each per month.
- (2) His tools were worth Shs.1066/-.
- (3) Tools belonging to his fundis were worth Shs.566/-
- (4) 7 lorry loads of timber @ Shs.150/- each = Shs.1050/-.
- (5) The lorry that transported the timber 7 safaries of timber @ Shs.35/- per safari = Shs.245/-. Totalling Shs.3187/- in

all. The Court wanted the plaintiff to provide proof to what is set out above, the plaintiff said that he has'nt got the agreements of the 4 fundis whom he had employedd to show that he used to pay the Shs.150/- per month. He also had no proof to show that he really had the toos which are alleged to have been stolen but that being a carpenter he was entitled to possess tools. In like manner he failed to show evidence that he kept his fundis' tools neither did the fundis outhorise him to claim their tools. He furthermore failed to produce evidence showing that he paid transport for the 7 lorry loads of timber as he says that he picked the lorry men locally (on the way) and that he did not pay them by mileage but just paid a lump sum of Shs.35/- per load per safari. He has no evidence but he has just brought in the order of the 15th. January, 53 made by the Ggombolola Mut.l. Kyaddondo ordering the conficication (exhibit No.1.) and another order a letter from from The Ggomb. Mut.l. Kyaddondo warning him of their coming to conficicate his property especially his timber (exhibit No.2.). The plaintiff says that after the conficication he was taken along with the c.i. sheets and ridges (only). The bicycle was timber were left without any one to look after them as he was alone.

As the plaintiff sued the Buganda Government, The Hon. The Ministers in their letter of the 22nd. June, 1955 and NO:J.5. authorise Ggombolola C. Mut.l. Kyaddondo Mr, Yokana Mukasa to represent the Buganda Government in this suit.

In his defence the defendant says that the case which the plaintiff has filed against the Buganda Government is not groundless as his 3 statements (plaints) do not agree with that ~~of the~~ made in the year 1953 which was sent to him under The Omulamuzi letter No.C.49 of 26th. October.53 and received on the 26.Oct.53. because in para 5/1) of the plaint wherein the plaintiff stated his lost property (damages); the plaintiff consented to having left his goods in the care of a porter for a period of 7 day paying 7/- a day ..

In the plaintiff's second statement (plaint) of the year 1955 which the plaintiff received under cover of The Katikiro's letter No.C.C.124/55 the defend plaintiff did not quash the first plaint. He prayed that both statements be taken as his plaints because in answers to the questions put to him by the defendant in the first plaint he said that he had left his property in the defendant's care whereas they were left with the plaintiff who appointed a guard (porter) over them. Again in the plaintiff's third plaint of the 18th. September, 1956 it is clear that the sums therein are fabricated as it differs from the first one which does not bear the 7 lorry loads of timber. Wherefore the plaintiff intended to cheat the Kabaka's Government as so as to get himself money, for he failed to name the kind of trees out of which the said timber had come from whether they were Mivule Nkoba or Misizi etc. Also to prove that the plaintiff intended cheating he brought in 3 other reasons:-

(1) That the plaintiff had been sued by Moses Lubega for D. Serwaniko. That summons were issued on him on the 12th. Sept:52 to appear in Court on the 25th. September, 52 which the plaintiff received but refused to attend the Court. The Court passed an ex-parte judgement against him. That the plain defendant was alone in this case but not eleven; neither did the defendant lodge an appeal.

(2) That on the 7th. October, 1952 the plaintiff was informed that he had lost the case and was ordered to pay Shs.112/50 together with Shs.5/- Court fees and travelling expenses making a sum of Shs.117/68 which he refused. He did not apply to the Court for a re-hearing as it is in the Civil Procedure 1940.

(3) That it was the plaintiff in C.C.NO.12/52 who applied for an attachment of the defendant's (now plaintiff) property in the plaintiff's letter of the 26th. November, 1952 stating the following things :- (a) C.I. sheet workshop and its doors; (b) Timber in the workshop; (c) Bicycle. The plaintiff in that case had paid Shs.12/- vide rec: No.21652 of the 16th. Dec.1952. The letter whereby Moses Lubega applied for an attachment of the plaintiff's property is made exhibit No.3. The defend plaintiff received a copy of the attachment order. The defendant says that the plaintiff had been warned from the 7th. October 1952 in the letter No.1702/1/52 up to 15th. September, 1953 and letter No.2209/1/53 after a full month after which the workshop was confiscated because of his negligence. He was allowed a months time before the c.i. sheets were sold but he refused to redeem them wherefore they were later sold on the 16th. December, 1953 and fetched a sum of Shs.265/-. The claimant was paid his Shs.204/68 together with the principal claim, Court fees and travelling expenses. The fundis who un-roofed the house and the lorry that took them to the Ggombolola took Shs.58/32 The balance were given to the plaintiff but he refused to take them they are up to now being kept ~~at~~ under cover of the Treasury receipt No.21652 of 16th. December, 1953.

The plaintiff prayed that in case he won the case the defendant be ordered to pay :- traveling expenses incurred by using his Mot Car No.U.F.P.118 together with his food allowance which he used to take in his capacity of Government Official.

With regards to the plaintiff's imprisonment, the defendant says that the plaintiff declined to the Lukiko representatives un-roofing the workshop, by throwing sticks at them whereby he was seized and tied on a rope. The c.i.sheets were taken from the house in the presence of the plaintiff and was afterwards taken with them to the Ggombolola where the plaintiff was released and asked to return to his home, and that he would be charged with fighting with the Lukiko representatives; latter. To prove that the plaintiff was not made to enter the prison,, his name is nowhere to be found in the prison register of Mut.l. Kyaddondo neither a remand warrant issued. Owing to the plaintiff's objection to go to his home, the defendant ordered him to be taken to the Saza h/q. There also he was not imprisoned as his relatives as he was released on bail. Whereupon the defendant called upon those who confiscated the plaintiff's property as his witnesses :- Erisa Kiviri, Yowana Serunjogi and Cpl. Yakana Kimperempe (The Ggombolola Askari) and Frasisiko Musoke.

The defendant's witness No. Yowana Serunjogi in his evidence said that he was one of those who went to confiscate the plaintiff, as the Muluka Sabaddu to the Ggomb. Mut.l. Kyaddondo. He was with his fellow representatives : Erisa Kiviri, the clerk Frasisiko Musoke and the Askari Yokana Kimperempe. They had an order authorising them to confiscate the c.i.sheets from the plaintiff's work shop and they did so. In doing so, he had been aware that the plaintiff had been warned that this would take place. The plaintiff was present together with 3 of his fundis with whom he works. When the fundis were removing the c.i. sheets from the building, the plaintiff threw sticks at them. He was advised not to do so but to off the claimed debt, but he failed to listen but carried on throwing sticks at them. The deputy Ggombolola, present, ordered the plaintiff's arrest and he was tied on a rope. The c.i. sheets were removed from the house and he was taken along with them to the Ggombolola where they were kept for a period of 2 months after which they were sold in auction (advertised).

The defendant's witness No.2. Erisa Kiviri in his evidence said that he was formerly the deputy Ggombolola Mut.l. Kyaddondo.. He was present in the capacity of the Ggombolola C. when the plaintiff's property was confiscated. He was present together with the Muluka C.. and the Mutongole who look after that area and the Mutl's Askari. The claimant was present. He brought fundis who un-roofed the workshop. There were also plaintiff's men who were sleeping in that house together with his friends. The house was not pulled down neither was a timber of the house removed. The plaintiff closed the doors of the workshop and his men (people) remaining with his ...

remained with his property. The evidence of this witness is just the same as that given by the previous witness.

Witness No. 2. Yowaka Kimperempe in his evidence said : That he was ordered to arrest the plaintiff (being the askari) when he was fighting, and tied him on a rope. A person came and cut the rope and ran off. The c.i. sheets were removed from the house when the plaintiff was still tied to the rope as he was no longer fighting. He was also the askari who took the plaintiff to the Saza Kaggo's prison, when the plaintiff had declined to leave the Ggombolola h/q, and as they had no prison at the Ggombolola. He took him to the Saza prison where after 5 minutes his friends took him away. He did not enter the prison, neither was a remand warrant issued.

The fourth witness (defence) Frasisiko Musoke did not give evidence. The defendant said that the witnesses who had given evidence would suffice.

SUMMING-UP.

Having carefully gone through this case we have concluded that, the plaintiff sued the Ggombolola Mut. 1. Kyaddondo. for kreaking down his house (workshop) and thereby causing him loss of Shs. 8.767/-.

That because the Ggombolola Mut. 1. issued the order in C.C. NO. 112/52 in his Court for the conficication of his property, he sues him. With the exception of the documental evidence brought in by the plaintiff, he has no witness though the workshop is known to be in a juction where there are a lot of people about, and his workshop was pulled down in the day time. We have been convinced that he left his people looking after his things when he was taken to prison together with the people who rent (hire) his other rooms on the workshop. It was his business to leave his things in the care of his people but not the Government's. We have also observed that the plaintiff has not right in this case to claim his fundis' tools. This shows that the plaintiff merely wants to raise his claim so as to receive a lot of fabricated money. How could the fundis' tools be stollen when they themselves were present?

The defendant's statement shows that the plaintiff's workshop had been pulled down in accordance to the order issued by the Ggombolola Mut. 1's Court in C.C, NO. 12/52. To prove that none of the plaintiff's other property had been conficicated with the exception of the c.i. sheet: he brought in 3 witnesses among them is the deputy Ggombolola Mut. 1. Kyaddondo, the Muluka C. who takes over that part and the Ggombolola Askari who pulled down the c.i. sheets from the workshop. These witnesses all confirmed that the plaintiff was present when they were removing the sheets from his workshop

together with many of his own people and that when they were taking the c.i. sheets to the Ggombolola, the plaintiff locked his doors because he was not tied up. The plaintiff failed to dispute this evidence therefore we were convinced that it was correct. The witnesses had denied the plaintiff's imprisonment and the plaintiff can only ascertain that he was tied up at the time when they were removing the c.i. sheets from the workshop, only. We are informed that ~~of~~ out of the Shs.265/- sold (from the c.i. sheets) Shs.204/68 were paid against the debt vide the order in C.E. No.12/52, the balance had been given to the plaintiff but he refused to take them and are still kept at the Ggombolola Mut.l. Kyaddondo.

Wherefore, from all the evidence collected we find that the plaintiff's claim is groundless we therefore give judgement against him. He has lost his Court fees of Shs.178/- paid vide receipt NO.81927 of 4th. May, 1955.

O R D E R.

We order that the plaintiff goes and collect the balance of the sale which were left at the Ggombolola Mut.l. Kyaddondo. To pay the ~~plainti~~ defendant's travelling expenses together with food allowance calculated to be correct.

Miles 410. @ -/75 p.m.	=	Shs.307.50
Food All: 13 day @ 2/	=	" 26.00
		<u>333.50.</u>

PRESIDENT.	sd.	M.B.K. Nakedde. S.J.
MEMEBR	2	P.N. Kanya. J.j.
MEMBER	"	B. Mulumba. ADDITIONAL JUDGE

13th. Hune, 1957.

EXHIBIT NO: 2.

No.46/1/53.

Mut.1's Office Nangabo, Kyaddondo.

7th. Jan: 1953.

Mr. Yowana Mukuza,
Gayaza St:CIVIL CASE NO.12/52.

Moses M. Lubega for D. Serwaniko (Kaggo).

v e r s u s

Yowana Mukuza Omuwawabirwa.

With regards to this Court's letter No.1996/1752 of 3/12/52 in reference to the order forwarded to you on the 7.10.52 in the above mentioned case in which judgement was passed in your absence (against you) and thereby ordered to pay a sum of Shs.117/66 which you refused.

You are therefore notified that on the 15/1/53 the Lukiko shall confiscate your property especially your timber in accordance with the plaintiff's application as he has already paid the attachment fee of Shs.12/- vide the Ggombolola receipt No.21652 of 16.12.52. You must therefore not absent yourself not the given date together with the plaintiff.

sd. ?. MUT.1. KWADDONDO.
MUTEGOMBWA..

Copy to :-

Mr. H.M. Lubega for D. Serwaniko Kaggo.

----- o o o -----

EXHIBIT NO .3.OWESAZA KAGGO'S ESTATE.
Kasangati - Kyaddondo.

26th. Novemeber, 1952.

Owa Ggombolola Mut.1.
Nangabo - Kyaddondo.

Civil Case No.12/52.

M.M. Lubega for D. Serwaniko vs Yowana Mukuza.

Sir,

In reference to your Court's judgement of the 23.9.52 and the order of your Court forwarded to the defendant on the 7.10.52 requesting him to pay Shs.117/68, I regret to say that up to now the defendant has failed to pay.

I pray that the Court confiscates his following property which I have traced, to be sold in auction for the recovery of my claim.

1. His c.i. sheet workshop together with its doors.
2. His timber in the workshop.
3. His bicycle.

I would like the Court to be aware at the auctioning of these articles that I still claim from him the rents of the months October - December 1952¹

I am Sir,