



THE REPUBLIC OF UGANDA

PRINCIPAL JUDGE'S CHAMBERS
HIGH COURT OF UGANDA
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KAMPALA-UGANDA

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IN ANY CORRESPONDENCE ON
THIS SUBJECT PLEASE QUOTE NO. **PJ/ADM.C.47**

HIGH COURT OF UGANDA

GENERAL CIRCULAR

TO : All Heads of Division/ Circuit
: All Registrars

SUBJECT: INJUNCTIVE ORDERS

As you may be aware, I have under **Office Instruction No.1 of 2014** given guidance to Registrars on grant of Interim Orders. Suffice it to add that from my interaction with various stakeholders in the administration of justice in the year under review, notably the Police, the DPP, the IGG and the Auditor General, concerns have been raised as to courts turning into "an Administrator of the Executive branch of Government" of sorts, for example:

- (i) **Employees securing injunctive orders:**
 - to STOP their employers from investigating them for malpractices detected at their work place.***
 - : to STOP their employers from interdicting them in order to pave way for disciplinary action under their service regulations.***
 - : to STOP Service Commissions from conducting disciplinary proceedings they are mandated to do under the Law.***
- (ii) **Suspects securing injunctive orders from Civil Courts:**
 - to STOP the IGG and the police from investigating them, which they consider contrary not only to the Law but to Public Policy as well.***
 - : to STOP the DPP and or IGG from prosecuting them before Magistrates' Courts.***

In a nutshell, it is believed that most applications are filed in bad faith in a bid to frustrate the fight against corruption and graft in state institutions. It is their strong feeling that these orders lack any discernable jurisprudential foundation; are costly to vacate vide the lengthy appellate process; and they contravene the constitutional mandates of the relevant bodies. Whilst it is not my intention or even mandate to assess the tenacity of these concerns herein, it is evident that the Executive branch is

becoming increasingly uncomfortable with the frequent injunctive orders which are regulatory in nature instead of the traditional writs which high court is mandated to issue.

For the above reasons, as I consider setting up a Judicial Review Division and seeking the Judicial Review Rules 2009 in due course:

1. *The litigating public, counsel and courts are reminded of the general position that High Court should not be seen to assume the role of running the Executive Branch of Government but should retain its power to intervene judiciously to prevent abuse of authority. It should not, in keeping with the doctrine of separation of powers, regulate the day-to-day functioning of the Executive Branch.*
2. *Where, however, the circumstances of a particular case dictate issuance of an injunctive order for maintenance of the status quo in the interim, regard ought to be had as to court's jurisdiction in the matter; the law regarding grant of temporary injunctions generally; and principle of natural justice that condemns hearing one side behind the back of the other.*
3. *Generally, an injunction would be issued, for example, to prevent an **ultra vires** action taking place, although not if the malfeasor is the Crown (Factortame Ltd Vs Secretary of State for Transport [1989]2 ALL ER 692). It is noteworthy that breach of injunction is contempt, and therefore is an imprisonable offence.*
4. *Any such injunctive order ought to be in the interim pending occurrence of another event, and it should be defensible and in accordance with the law to avoid possible abuse of court process.*
5. *This circular takes effect from the date of issue, should not be taken to be a restatement of legal principles of our judicial review law and these points ought to be observed in future to avoid discomfort attendant to issuance of such orders.*


Dr. Yorokamu Bamwine
PRINCIPAL JUDGE

C.c. : The Hon. The Chief Justice
: All Judges, High court of Uganda
: The Chief Registrar
: The Secretary to the Judiciary

REF: PJ.ADM.C.47

Date: 22/12/2014