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THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA AT KABALE  
REVISION APPLICATION NO. 005 OF 2025

(ARISING FROM CIVIL MISC. APPLICATION NO. 35 OF 2024)

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ARISING FROM KABALE CHIEF MAGISTRATE'S COURT CIVIL SUIT NO.  
36 OF 2024)

AHMED TINDYEBWA .....APPLICANT

VERSUS

ANDREW AKAMPEREZA .....RESPONDENT

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BEFORE: HON. JUSTICE SSEMOGERERE, KAROLI LWANGA

RULING

Brief Facts:

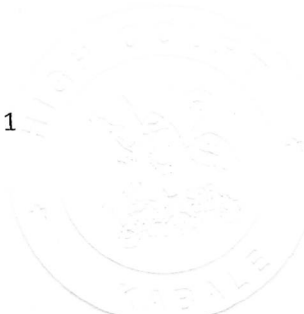
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On April 12<sup>th</sup>, 2024, Respondent filed a summary suit against the applicant, Civil Suit No. 036 of 2024 against Applicant in the Chief Magistrate's Court of Kabale seeking recovery of UGX 12,000,000/=. Applicant filed an application for leave to appear and defend the same suit. On May 9<sup>th</sup>, 2024, Respondent filed Civil Misc. Application No. 035 of 2024 seeking to attach a motor vehicle reg. no. UBN 434T registered in the names of Beyond Remarkable Journeys Limited as security for Civil Suit No. 036 of 2024. Applicant objected to attachment of the same as the car belonged to the said company which was not party to proceedings in the lower court.

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This application seeks court's orders under Sections 83 and 98 of the Civil Procedure Act, Cap 282, the "Civil Procedure Act" and Order 52, Rules 1 and 2 of the Civil Procedure Rules, S.I. 71-1, the ("the Civil Procedure Rules") to revise and set aside the proceedings, ruling and orders of the learned Chief Magistrate, His Worship Derrick Byamugisha delivered on April 29<sup>th</sup>, 2025.



5 I will only reproduce the grounds relevant to the disposal of this application.

The grounds of the application are:

- 10 1. The learned Chief Magistrate erred in law when he illegally exercised his jurisdiction, by ordering for attachment of a company motor vehicle UBN 434T, a third party, who was not party to the court proceedings in the main suit.
2. The learned Chief Magistrate erred in law when he exercised a jurisdiction not vested in him when he purportedly lifted the veil which is the preserve of the High Court.
- 15 3. The learned Chief Magistrate's rulings and records of the lower court constitute an illegality and no execution should issue therefrom.

The application is supported on these grounds by an affidavit sworn by Ahmed Tindyebwa, applicant, and respondent in the impugned proceedings in the lower court.

20 The application is opposed by an affidavit sworn by the respondent, Akampereza Andrew. Briefly he opposes the application on the following grounds. These are:

1. The learned Chief Magistrate acted in his pecuniary jurisdiction, i.e. the claim was for UGX 12,000,000/=.
- 25 2. The learned Chief Magistrate did not lift the veil.
3. That the application is wrong in law, as the correct procedure in execution is filing objector proceedings.
4. That the impoundment of the motor vehicle was due to an allegation by the respondent that the applicant was enjoying the proceeds of the business in which the two parties (applicant and respondent) were involved.
- 30 5. The summary suit was the correct procedure as the claim was for a liquidated sum for his share of the balance of his contribution to the business, 12,000,000/= out of 25,000,000/= paid.

35 Respondent also made the following further averions on the particulars of the 3<sup>rd</sup> party.

- 5        1. That the applicant is the sole director of Beyond Remarkable Journeys  
Tour and Travel Company T/A Beyond Travel Africa Ltd.  
2. That the impounded van is not owned by the company but rather  
property bought by two individuals for hire services.

10       Respondent attached a Memorandum of Understanding to his pleadings  
between the two parties signed by both parties executed on May 1, 2023.

### Representation:

15       Applicant is represented by M/S Elgon Advocates, while Respondent is  
represented by M/S Bikangiso and Company Advocates. At the oral hearing  
on June 17, 2025, court directed the parties to proceed by written  
submissions, which they have accordingly complied with.

### Issues for Resolution:

20       Court's powers of revision under **Section 83(1)(a)-(c)** of the **Civil Procedure  
Act** (the "**Civil Procedure Act**"), are limited for court to entertain these  
applications. These are:

- (a) When court has exercised a jurisdiction not vested in it by law;
- (b) Failed to exercise a jurisdiction so vested;
- (c) Acted in the exercise of its jurisdiction illegally or with material  
irregularity or injustice.

25       Second, in a revision, in **Section 83(2)(a)** and **(b)** of the **Civil Procedure Act**,  
court must give the parties an opportunity to be heard, and lastly, revision  
may only be exercised where a lapse of time or other cause, may not cause  
serious hardship to any person.

### Discussion and Analysis:

30       It is important to emphasize that the powers of court on revision are very  
limited, see the decisions of this court, **Joseph Ntibaza v Majambere Ronald**  
**Misc. Application No. 005 of 2024** reported at 2025 UGHC 259 and  
**Kehooda Immaculate and Rwabuhe Johnson V Lyamujungu Cooperative**  
**Financial Services, Revision Application No. 002 of 2025** reported at 2025  
35       UGHC 280.

5 This is the full extent of the inquiry by court to resolve this issue, caution should be exercised on the basis that revision is not a hearing, rather a correction of an illegality.

I have perused the application, and submissions of counsel for the parties. This sole matter for determination is whether there was an illegality in the  
10 exercise of court's powers under **Order 40 Rule 5** of the **Civil Procedure Rules** by the learned Chief Magistrate in Miscellaneous Application No. 35 of 2024.

Applicant brought an application by way of chamber summons under the above cited rule seeking for orders; that

- 15           1. The Motor vehicle registration number UBN 434T be impounded and attached as security for Civil Suit No. 36 of 2024.  
              2. Costs of the application.

Order 40 Rule 5 of the Civil Procedure Rules provides as follows:

20           (1) Where at any stage of the suit, the court is satisfied, by affidavit or otherwise, that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him or her-  
[emphasis mine].

(a) is about to dispose of the whole or any part of his or her property;

25           (b) is about to remove the whole or part of any of his or her property from the local limits of the jurisdiction of the court; or

(c) has quitted the jurisdiction of the court leaving in that jurisdiction property belonging to him or her;

30           “The court may direct the defendant, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order to produce and place at the disposal of the court, when required, the property or the value of the property, or such portion of it as may be sufficient to satisfy the decree, or to appear and show cause why he or she should not furnish security.”

35           (2) the plaintiff shall, unless the court otherwise directs, specify the property required to be attached and the estimated value of the property.

5 I have perused the ruling of the learned Chief Magistrate, and found that that in his ruling, he considered the grounds for the application, of which I have redacted the ones pertinent to this application.

1. There was a pending suit, Civil Suit No. 36 of 2024.
2. The applicant had sufficient knowledge that the respondent intended to dispose of the said Motor vehicle.
3. The respondent was looking for buyers of the said Motor vehicle from Mbarara and Kampala which were beyond the jurisdiction of the Chief Magistrates Court Kabale.
4. The execution of any decree would be obstructed by such sale or disposal.

In the instant suit, the major point of contention is that the registered owner of the motor vehicle is a company, of which the respondent is the sole shareholder. The respondent by way of evidence, did not tender any submissions responding to this allegation. Neither did he deny the allegations in the impugned suit, **Miscellaneous Application No. 35 of 2024**. I will not address, the rest of the ruling, which may legitimately be a subject of appeal, but not revision, as it calls for hearings and evaluation of evidence not before court.

I find that court conducted an investigation of the claim to property attached before judgment, under **Order 40 Rule 8 of the Civil Procedure Rules**. The learned Chief Magistrate observed thus in conclusion:

“One would wonder, then if the Respondent, has no ill motives, why would he want to hide behind the company called Remarkable Journeys in order to deny the applicant....

The application for revision therefore fails as a matter of law. The findings of the Chief Magistrate would be subject of an appeal not a revision. In, **Kadibu Eric vs. Bernard Bagwire & 2 others HC CR No. 011 of 2004**, which was followed by the High Court at Fort Portal in the case of **Kisembo Patrick vs. Kyaligaba Richard HC CV CR. No. 010 of 2010** , the issue for resolution was similar.

“Whether the trial Magistrate was right or wrong in declaring a matter *res judicata* belongs to an appellate not a revisional court.”

Findings of fact and law are part of a decision of court, and the proper procedure is to appeal against the decision rather than application for revision. In **Kasungu Douglas v Bwambale Yusuf**, HC Civ Application No. 1 of 2011, Chibita J., as he then was observed in another matter, how such an application is disposed of;

“The learned Chief Magistrate had jurisdiction to entertain the case. He exercised that jurisdiction rightly. There was nothing illegal or materially irregular with his decision.”

The impugned application was brought properly before court, the subject matter of the claim UGX 12,000,000/= was within the pecuniary jurisdiction of the Court. **Order 40 Rule 5, of the Civil Procedure Rules** was the correct procedure to dispose of the application to attach property before judgment. The applicant dissatisfied with the decision of court, subject to obtaining leave to appeal under **Order 44 Rule 2, of the Civil Procedure Rules**, would appeal to this court, where evidentiary matters and points of law would be entertained.

**Findings and conclusion:**

This application fails.

Costs to the respondent.

I SO ORDER,

DATED AT KABALE THIS 18<sup>th</sup> DAY OF AUGUST 2025.

  
SSEMOGERERE, KAROLI LWANGA  
JUDGE.

