

**THE REPUBLIC OF UGANDA**  
**IN THE ELECTRICITY DISPUTES TRIBUNAL AT KAMPALA**  
**COMPLAINT NO.EDT 48 OF 2018**

**BALUKU SURAIMAN**  
Suing through his lawful attorney  
**THEMBO ENOCK** ..... **COMPLAINANT**

**VERSUS**

**UGANDA ELECTRICITY TRANSMISSION**  
**COMPANY LTD** ..... **RESPONDENT**

**R U L I N G**

When this matter came up for hearing this morning, Mr. Guma, Counsel for the Complainant was absent.

The complainant Baluku Suraiman's attorney- Thembo Enock was also absent, Eva Nabadda Counsel for the Respondent was present. There was a letter on the file from Guma & Co. Advocates dated 22<sup>nd</sup> May 2018 seeking an adjournment of the matter. Mr. Guma was purportedly attending High Court in Mbarara.

Counsel Eva Nabadda opposed the application for adjournment on the following grounds:-

1. That the letter to the tribunal seeking adjournment which was copied to her was delivered to her at 4.00pm yesterday.
2. The letter did not indicate the case number or the parties and no hearing notice was attached to give sufficient details of the case.
3. Mr. Guma had on the previous day appeared in the tribunal together with Counsel Nabadda but did not inform her that he was going to Mbarara.

Counsel Nabadda also prayed that the case be dismissed because while the complaint was filed by a one Thembo Enock as holder of Power of Attorney, no power of attorney was attached which offended 0.7 rule 14 of the CPR.

On the first ground namely the absence of Counsel, the tribunal generally does not accept adjournment by letter except in only exceptional or deserving cases. Since no details were given by Counsel Guma about the nature of the case, i.e. the parties and case number, we are not satisfied that indeed Counsel Guma was attending High Court in Mbarara. We do agree with Counsel Nabadda that indeed if Mr. Guma was to attend High Court in Mbarara, he should have informed both the tribunal and Counsel that he was not going to be present. In that way it may not have been necessary for the Counsel to attend or indeed the tribunal to sit for the same case.

On the preliminary objection as to locus, we do agree with counsel Nabadda that indeed, a complainant who sues through a power of attorney must attach the copy of the powers as required by Order 7 Rule 14 of the CPR. The rule states *"Where a plaintiff sues upon a document in his or her possession or power, he or she shall produce it in court when the plaint is presented, and shall at the same time deliver the document or a copy of it to be filed with the plaint."* Since no power of attorney was attached, the complaint is incompetent and must be struck out for lack of locus.

The case of John Sebataana suing through his Attorneys vs. Abanamer Yorokamu and Francis Lwanga HCCS No.99 of 2005 is authority for the proposition that where a done of powers of attorney institutes a suit against the defendant without attaching the power of attorney, the plaint and in our case complaint can't be sustained.

In that case Justice Mulangira J held *"Thus a plaint without plaintiffs cannot be sustained in law and the same cannot be amended."*

Similarly in Fakrudin Vallibhai Kapasi vs. Kampala District Land Board and Anor. HCC No.570 of 2015 cited by Counsel Nabadda, His Lordship Basheija referred to the failure to attach the document as a serious illegality for the plaintiff to have commenced a suit without locus standi because "locus determines who should have access to justice."

As the tribunal was proceeding, a one Baluku Sulaiman came in. He however did not explain why his attorney Thembo Enock did not attend and whether he, the complainant had withdrawn the purported power of attorney. This leads the tribunal to confirm Counsel Nabadda's argument that there is nobody with locus to present this claim and to proceed with it would be a waste of the tribunal's time.

In the result, the complaint is truck out with costs to the Respondent.

We so order.

Charles Okoth Owor

Anaclet Turyakira

Moses Musaazi

23/5/2018

man

73 MAY 2018

ICE Chairman

MEMBER

Member