



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Case 813 of 2007**

**W. M. MUIRURI w/a SENIOR DEPUTY**

**REGISTRAR, HIGH COURT OF KENYA.....PLAINTIFF**

**VERSUS**

**O.P. NGONGE t/a O.P. NGOGE & ASSOCIATES ADV. ....DEFENDANT**

**RULING**

The plaintiff herein moved to this court by way of a plaint dated 4<sup>th</sup> day of December 2007 and filed on 5<sup>th</sup> December 2007. The cause of action stems from a publication alleged to have been falsely and maliciously published or caused to be written by the defendant in the manner specified in paragraph 4 of the plaint. According to the plaintiff, the words complained of, in their natural and ordinary meaning were understood to mean the words attributed to them in paragraph 5 of the plaint, as a result of which the plaintiff alleges that his reputation was damaged and has suffered considerable distress and embarrassment. They are alleged to have caused the damage set out in paragraph 8, 9 and 10 of the plaint. In consequence thereof the plaintiff prayed for general damages for libel, exemplary damages for malicious libel for writing/publishing words concerning the plaintiff with reckless disregard as to whether or not they were defamatory or injurious to the plaintiff.

(c) Costs of and interest on (a) and (b) in this suit.

The summons to enter appearance are dated 10<sup>th</sup> December 2007. On 17<sup>th</sup> December one Henry Munyao Mutisya swore an affidavit filed on 1<sup>st</sup> February 2008 alongside a request for judgment also dated 1<sup>st</sup> February 2008 and filed the same date. Paragraph 2 thereof depones that the process server received processes to be served on the defendant on 13<sup>th</sup> December 2007. Upon receipt of the same he proceeded to the defendants office but was told by the secretary to the defendant that the defendant was out of office attending a seminar in Malindi but would be back in the office on 17<sup>th</sup>. On this date of 17<sup>th</sup> December 2007, the process server went back to the same office and found the defendant whom he served with the processes and the defendant stamped and signed the principal copy.

Upon filing of the request for judgment there is a note addressed to Senior Principal Deputy Registrar for directions. There is another note giving directions that interlocutory judgment should be entered as requested. That entry was endorsed on 7<sup>th</sup> day of February 2008.

The defendant then moved to this court vide an application by way of chamber summons dated 2<sup>nd</sup> day of May 2008, brought under Order VI Rule 13 (1) (b), (c) and (d) of the Civil Procedure Rules and Section 3 A of the Civil Procedure Act and Order IX B Rule 8 and IX A Rule 10 Civil Procedure Rules. The application sought 4 prayers namely:-

- (1) Spent.
- (2) That the ex parte judgment and orders purportedly given by the Deputy Registrar Hon. Muya against the defendant on 7<sup>th</sup> February 2008 without jurisdiction be nullified and set aside ex debito justitiae with costs to the applicant.
- (3) That the plaintiffs' suit herein be struck out with costs.
- (4) That the costs of this application be borne by the plaintiff/respondent in any event.

The grounds are set out in the body of the application, supporting affidavit, further affidavit, oral submissions in court and case law and the major ones are as follows:-

- (1) It is correct that the defendant was served with the plaint on 17<sup>th</sup> December 2007, ten (10) days before the general elections.
- (2) That on 8<sup>th</sup> February 2008 the defendant filed the memorandum of appearance and statement of defence and paid for the same vide receipt number 1859558.
- (3) It is the defendant/applicant's stand that as at the time he filed the said memorandum of appearance, he was not informed that any interlocutory judgment had been entered in the matter. For this reason he was of the opinion that as at that point in time, no interlocutory judgment had been entered in the matter.
- (4) That later on is when the defendant/applicant was informed by the plaintiff that the memo of appearance had been received under protest as the interlocutory judgment had already been entered against him.
- (5) He contends that the entry of the interlocutory judgment complained of and sought to be upset is a nullity because the Deputy Registrar lacked jurisdiction to enter interlocutory judgment for libel and exemplary damages as sought in the plaint without hearing the evidence of the parties thereby usurping the role and duties of a Judge of the High Court.
- (6) He contends that jurisdiction for entry of interlocutory judgment is only available in liquidated claim.
- (7) It is his stand that the plaintiff being a senior officer in the civil registry he might have pressured his juniors to make the said entry.
- (8) That the defence which was filed in time raises triable issues against the plaintiff's claim.
- (9) That the defence and entry of appearance were not prepared and filed in time due to election violence which prevented him from accessing his office from Western Kenya.
- (10) That the purported fixing of the matter for formal proof is irregular as the date was taken even before the plaintiff filed his list documents.
  - (i) Invited the defendant to fix a mutual hearing date.
  - (ii) The applicant has knowledge that the diaries for 2008 are already full and yet the plaintiff managed to secure a hearing date for 28<sup>th</sup> July 2008.
- (11) That the complaint that led to the proceedings concerns a public officer and as such it could not give rise to any claim against the plaintiff which complaint the plaintiff was entitled to raise. More so when the defendant believes that the plaintiff may be using his position to frustrate the defendant in the process of following his employment as private practitioner. He is therefore a genuinely aggrieved person.

In his oral submissions in court counsel stressed the following:-

- (1) It is now trite law that when the claim in the plaint is not liquidated there is no jurisdiction to enter interlocutory judgment.
- (2) The matter under consideration is such an irregular interlocutory judgment and as such the court is entitled to set it aside ex justitiae debito even on the courts own suo moto.
- (3) That the plaintiff failed to disclose that the claim was not liquidated and as such they cannot rely on their own wrong doing to the disadvantage of the defendant/applicant.
- (4) That should the court find that the judgment is regular, then they contend that the court should not lose sight of the content of the defence.
- (5) The plaint should be struck out as the applicants contention is that the plaintiff as a public judicial officer, enjoys immunity and as such he cannot bring this case which will invite the defendants to put in a counter claim.
- (6) He contends that until the plaintiff receives the verdict from the judicial service commission, the plaintiff has no cause of action against the defendant.
- (7) Alternatively being a public servant, the only proper person to bring an action on behalf of a public servant is the Attorney General and so the suit is incompetent on this account.
- (8) The suit is meant to intimidate him so that he does not pursue his complaint.
- (9) He also contends that the application is undefended as the replying affidavit has been sworn by the plaintiff's counsel contrary to the rules as the said counsel has deposed to controversial issues between the parties, and as such he has invited himself to be drawn into the witness box for cross-examination.

The plaintiff/respondent has opposed the application on the basis of grounds set out in the replying affidavit and oral highlights in court. The major ones are as follows:-

- (1) The interlocutory judgment was lawfully and properly entered.
- (2) That there is no valid defence on the record and so there is no need for a reply to defence to be filed by the plaintiff.
- (3) That the record of the proceedings shows clearly that the memo of appearance and defence were received without the presence of the file hence the minuting that as at the time the memo of appearance and defence were received after interlocutory judgement had already been entered.
- (4) That some of the grounds raised by the defendant/applicant touch on the main suit while some touch on points of law which are not available to the defendant/applicant as there is no valid defence on record.

In his oral highlights learned counsel for the plaintiff stressed the following:-

- (i) Him as counsel was duly authorized to swear the affidavit as he is familiar with the circumstance concerning the conduct of this matter.
- (ii) The application is frivolous as the defendant was served on 17<sup>th</sup> December 2007. Where as interlocutory judgment was entered on 7<sup>th</sup> February 2008 and the purported memo of appearance and defence were filed on 8<sup>th</sup> February 2008.

(iii) That the authorities relied upon by the applicant do not hold as they relate to liquidated claims, where as the suit herein on libel and the interlocutory judgement was on liability only as the general damages have to be proved.

(iv) They maintain the suit is properly before court as it has not been brought by the plaintiff in his official capacity but his private capacity.

(v) The defences' complaint about him swearing the affidavit as counsel can not hold as if the defence had any complaint concerning those deponements, then they should have applied for his cross-examination (counsel)

In response to that submission counsel for the defendant/applicant still reiterates their earlier stand that, the interlocutory judgment is a nullity.

On the courts assessment of the matter herein, it is clear that from the defendant /applicant's deponment he has attained both the main pleading as well as the entry of the interlocutory judgment which in effect invalidated his papers filed a day after entry of the said interlocutory judgment. This scenario brings to the fore issues of locus standi to attack the plaint.

The court has judicial notice of the fact that Order IV Rule (1) Civil Procedure Rules permits a litigant to come to court by way of a plaint. Upon filing of a plaint the rules obligate the plaintiff to invite his opponent to participate in the proceedings. The invitation is found in Order IV Rule 3 civil Procedure Rules which reads:- *"where a suit has been filed a summon shall issue to the defendant ordering him to appear within the time specified herein."*

The plaintiff herein complied with that requirement by filing the plaint dated 4<sup>th</sup> December 2007 and filed on 05.12.2007. Further compliance is by issuance of summons to enter appearance dated 10<sup>th</sup> December 2007. They contain a provision specifying the time frame within which to respond to the claims in the plaint, by entry of appearance. The time frame given to the applicant herein was 15 days from the date of service. The copy of the summons on the court file indicate that the defendant was served on 17<sup>th</sup> December 2007, which in fact is not disputed by them. It means that as required by law, 15 days started running from 17<sup>th</sup> December 2007 if the first day is included and 18<sup>th</sup> December if the first day is excluded. 15 days would then end up on either 1<sup>st</sup> or 2<sup>nd</sup> January 2008. However this court cannot lose sight of the requirement of the provision of Order 49 civil Procedure Rules. Order 49 rules 2 and 3 permit the exclusion of Sundays, calendar public holidays as well as any other date or day declared to be a public holiday from counting of days limited in the performance of any action. Rule 3 A on the other hand reads:- *"Except where otherwise directed by a Judge for reasons to be recorded in writing, the period between the 21<sup>st</sup> day of December in any year and the 6<sup>th</sup> day of January in the year next following, both days included, shall be omitted from any computation of time (whether under these rules or any order of the court) for the amending, delivering or filing of any pleading or the doing of any other Act provided that this rule shall not apply to any application in respect to a temporary injunction."*

The defendant/applicant has not complained that he was served on a date or day that is to be excluded. This means that the counting has to start on 17<sup>th</sup> December 2007 then interrupted by the period running from 21.12.2007 to 06.01.2008. As at 20<sup>th</sup> December 2007 the plaintiff had 4 days to his credit. The balance of 15 days were to be filled in with the days running from the 7<sup>th</sup> January 2008 ending on 17<sup>th</sup> January 2008. This means that entry of appearance should have been filed on or before 17<sup>th</sup> January, 2008. It is on record and it is common ground from both sides that appearance was not entered by this date.

This court has judicial notice of the fact that failure to enter appearance in time attracts penal consequences against the defaulting party. Order IX Rule 1 gives open leave for entry of appearance at any stage before entry of judgment. It reads:- *"A defendant may appear at any time before formal judgement and may file a defence at any time before interlocutory judgment is entered against him or if no interlocutory judgment is so entered at any time before final judgment."*

Herein final judgment has not been entered. What has been entered is interlocutory judgement. This move brings to the fore the provision of Order IX A, Civil Procedure Rules on consequences of non-appearance and default of defence. The relevant provisions are Order IX A Rules 3 and 5 thereof. These read:- “3 (1) where the plaintiff makes a liquidated demand only and the defendant fails to appear on or before the day fixed in the summons, or all the defendants fail to appear the court, shall on request inform No. 26 of Appendix c, enter judgement against the defendant or defendants for any sum not exceeding the liquidated demand together with interest thereon from the filing of the suit at such rate as the court, thinks reasonable to the date of judgement, and costs.

(2) Where the plaintiff makes a liquidated demand together with some other claim and the defendant fails, or all the defendants fail to appear as foresaid the court, shall on request in Form No.26 of Appendix c, enter judgment for the liquidated demand and interest thereon as provided by sub-rule (1) but the award of costs shall await judgment, upon such other claim.

(5) Where the plaintiff is drawn with a claim for preliminary damages only or for determination of goods with or without a claim for pecuniary damages and any defendant fails to appear, the court, shall on request inform No. 26 of Appendix c, enter interlocutory judgement against the defendant and the plaintiff shall set down the suit for assessment by the court, of the damages or the value of the goods and damages as the case may be.”

Applying the afore set out provisions on entry of interlocutory judgement, it appears that in order to resolve the matter as to which provision applies, it is imperative upon the court, to turn to the plaintiff on record to establish the nature of the claim presented herein. A perusal of the claim dated 4<sup>th</sup> December 2007 and filed on 5<sup>th</sup> December 2007 reveals that nowhere in its body does it raise or mention a liquidated claim. In its prayers to court, there is no mention of a liquidated claim.

The prayers sought are:

(a) General damages for libel.

(b) Exemplary damages for malicious libel for writing/publishing words concerning the plaintiff with reckless disregard as to whether or not they were defamatory or injurious to the plaintiff.

(c) Costs of and interest on (a) and (b) in this suit.

The absence of a liquidated claim removes the claim from the operations of the provision of Order IX A Rule 3 (1) (2) Civil Procedure Rules, and brings the claim into the provisions of Order IX A Rule 5 Civil Procedure Rules. The request for judgement on record is dated 1<sup>st</sup> February 2008 and it is filed the same date. It is indicated to have been made under Order IX A rule 3.

This court has made observations that rule 3 applies only where the entire claim is liquidated, thus calling into operation Order IX A Rule 3 (1) or where it is part liquidated, and partly un liquidated in which case Order IX A Rule 3 (2) would apply. The plaintiff having come under Order IX A Rule 3 and 9, with Rule 9 just being the procedural rule, making up for the failure to file a defence cannot succeed as the plaintiff's claim was neither liquidated nor partly liquidated, in which case entry for interlocutory judgment was being made for failure to enter appearance as well as failure to file a defence.

Having faulted the request for entry of judgement as having been made under the wrong rule, the question is what terminology is to be used regarding the said entry. Such a determination is necessary because it will determine the amount of labour to be put in, in trying to upset it. Whether it is irregular or regular. This court, has judicial notice of the fact that, it is now trite law, that an irregular judgement is void ab initio and even the court can set it aside on its own motion. Where as a regular judgment, on the other hand, can only be set aside, if the applicant intended to benefit from the setting aside of the said entry of the judgment, has to demonstrate presence of ingredients for setting aside such a judgment established by both the rules and case law on the subject.

The rule applicable is that found in Order IX A Rule 10 Civil Procedure Rules which reads:-

*“Where judgment has been entered under this Order the court, may set aside or vary such judgement and any consequential decree or order upon such terms as are just.”* The discretion to set aside or vary such a judgement is donated by the said rule. The ingredients for setting aside and or varying such a judgment is donated by case law some of which have been put forth by the defence.

The case of **MEIR MIZRAHL VERSUS NAIROBI CITY COUNCIL AND OTHERS NAIROBI, MILIMANI HCCC COMMERCIAL CASE NUBMER 131 OF 2003**, decided by Waweru J. on the 27<sup>th</sup> day of January 2005. Under inquiry was the issue as to whether or not there is a proper and lawful interlocutory judgement validly entered. At page 6 of the ruling line 12 from the bottom, the learned Judge made the following observations:- *“The plaint in the present suit does not make a liquidated demand only. It does not make a liquidated demand together with some other claim. It does not make a liquidate demand with or without some other claim. The plaint is not drawn with a claim for pecuniary damages only or for detention of goods with or without a claim for pecuniary damages.*

*It is thus plain as daylight that interlocutory judgment was not available and none should have been entered by the Deputy Registrar. The judgement entered on 4<sup>th</sup> September 2003 is illegal and a nullity in law and cannot be permitted to stand.”*

The case of **KIKOMI 1993 LTD VERSUS KENAY ORIENT INSRUANCE CO. LTD, KISUMU, HCC A 136 OF 2004** decided by Warsame J. on 11<sup>th</sup> day of March 2005. Under consideration was an application to set aside an exparte judgement. At page 11 of the ruling line 8 from the bottom the learned judge made the following observation *“. . . therefore the judgment entered and obtained by the plaintiff is not a final judgment, was a clear violation of the express provision of Order IX A Rule 5.”* At page 13 line 2 from the top: *“there was material non-disclosure on the part of the plaintiff to court, that its claim was not a liquidated claim and the judgement entered was not appropriate in the circumstances of the matter. It was the duty of the plaintiff to tell the court, that it was seeking an award of damages, therefore it is my view that non-disclosure was not innocent but a deliberate attempt to obtain a situation of advantage over the defendant which cannot sanction.”*

The case of **CHARLES MWAURA VERSUS KENYA BUREAU OF STANDARDS, NAIROBI MILIMANI COMMERCIAL COURTS, CIVIL SUIT NO. 1058 OF 2000**. Under inquiry was an application for setting aside an exparte judgment brought under Order IX A Rule 10 and 11 Civil Procedure Rules. It was decided by Ringera J. as he then was. At page 9 of the ruling, the learned Judge as he then was, quoted with approval the remarks of Duffus P. in **PATEL VERSUS EA CARGO HANDLING SERVICES [1974] EA 75** thus:- *“the main concern of the court, is to do justice to the parties, and the court, will not impose conditions on itself to fetter the wide discretion given to it by the rules. I agree that where it is a regular judgment as in the case here, the court, will not usually set aside the judgment unless it is satisfied that there is a defence on the merits. In this respect defence on the merit does not mean in my view, a defence that must succeed, it means as Sheridan J. put it “a triable issue.” That is an issue which raises a prima facie defence and which should go to trial for adjudication.”*

At line 4 from the bottom the learned Judge, as he then was, went on to state thus:- *“To do all that I should add my own view that a distinction is to be drawn between a regular, and an irregular, exparte judgment. Where the judgment sought to be set aside is a regular one, then all the above considerations as to the exercise of discretion should be borne in mind in deciding the matter. Where on the other hand, the judgment sought to bet set aside is an irregular one, for instance one obtained either where there is no proper service or any service at all of the summons to enter appearance or when there is a memorandum of appearance or defence on record but the same was in advertently overlooked, the same ought to be set aside not as a matter of discretion, but ex debito justitiae for a court, should never countenance an irregular judgment on record.”*

In addition to the foregoing there is the celebrated decision in the case of **SHAH VERSUS MBOGO AND ANOTHER [1967] EA 116** wherein holding (iv) the court held thus:- *“the courts discretion to set*

*aside an ex parte judgment is intended to be exercised to avoid injustice or hardship resulting from accident, inadvertence, or excusable mistake or error but not to assist a person who has deliberately sought (whether by evasion or otherwise) to obstruct or delay the cause of justice.”*

Applying the foregoing to the facts herein, it is necessary to determine whether this is a regular or irregular interlocutory judgement before determining the presence of the ingredients applicable as pointed out by Ringera J. as he then was in the **CHARLES MWAURA CASE (SUPRA)** identification marks for an irregular interlocutory judgment are as follows:-

(a) It must have been obtained where there is no proper service or any service at all of the summons enter appearance. Herein there was proper service of summons not to enter appearance, which fact is admitted by the defence.

(b) There must be a memorandum of appearance or defence on record but the same was inadvertently overlooked. Herein it is not disputed that the memorandum of appearance and defence were filed on 8<sup>th</sup> February 2008. The entry of interlocutory judgement was requested for and filed the same date of 4.2.2008 and immediately the request was placed before the Senior Principal Deputy Registrar for directions. Directions were given that, interlocutory judgement be entered as requested, but the date the comments were made is not given. However, a perusal of the entries in the record reveal, that the said interlocutory judgement was entered on 7<sup>th</sup> February 2008. On 11<sup>th</sup> day of the same month, it was minuted that the memorandum of appearance and defence had been accepted in the absence of the original file, hence inability to realize that entry of interlocutory judgment had been entered.

The defence counsel has attempted to make allegations touching on accusations, on backdating but he did not ask the court to issue an order directed at the Senior Principal Deputy Registrar who gave the go ahead to make an entry for interlocutory judgment and signed off that entry, to give an affidavit explaining circumstances, under which those remarks were received and acted upon. In the absence of such an explanation, there is nothing to show that memorandum of appearance, and defence, were on record earlier in time and that the entry for interlocutory judgment were backdated.

(3) In this courts own opinion the **CHARLES MWAURA CASE (SUPRA)** left out one other ingredient and or identification mark namely, that the request for the Judgment should have been made under the correct rule. Here in, this court, has already made observations, that the request for interlocutory Judgment was irregularly applied for and granted under that rule and yet the claim was not a liquidated claim.

For the reasons given in number 3, above, although identification mark number 1 and 2 above, do not suffice, identification mark number 3 added by this court suffices to make the said entry of the Judgment irregular. For this reason it qualifies to be set aside ex justitiae debito.

However should this court be wrong on identification mark, number 3, and just term it an error, in that rule 3, was quoted instead of rule 5 and in view of the fact that no direct benefit stood to accrue to the Plaintiff by reason of him being required to prove the claim, then the court has to examine whether on the facts presented before it, its discretion is to be exercised or withheld in favour of the applicant and why.

The only reason given by the applicant is that he was held up country by violent events that rocked the country after last years general elections. These have not been denied by the plaintiffs, as these were matters of public notoriety then. Although they could be just an excuse, in view of the fact that there is no disclosure as to when, the learned counsel closed his offices, and when he came back from upcountry to open his offices, however the allegation cannot be brushed aside.

The second reason advanced was that the application is un contested as counsel should not have sworn the replying affidavit. As submitted by the plaintiffs' counsel, disqualification can only hold where the counsel has sworn to matters relating to contentious issues, thus inviting him into the witness box for cross-examination. Here in the defence counsel besides raising the complaint, did not point out any contentious paragraphs that could lead to the deponing counsel into the witness box for cross-

examination. Neither did he apply for the deponing counsel to be cross-examined on any of these deponements. For the reasons given above the replying affidavit has not been faulted. The application is therefore contested.

The issue to be determined now is whether the courts', discretion is to be exercised in favour of the applicant, first to set aside the *ex parte* interlocutory judgment, entered herein, and secondly to strike out the entire suit.

Regarding the exercise of the courts discretion in setting aside the *ex parte* judgment entered herein on 7<sup>th</sup> February 2008, the court is of the opinion that in view of the fact that:-

- (i) Request for Judgment was made under a wrong rule,
- (ii) The amount claimed is not liquidated,
- (iii) Memorandum of appearance and defence were accepted though in error,
- (iv) Weighty issues are raised both in the plaintiffs' and applicants affidavit, it is only proper, fair and just that the court called upon to determine the issues between the disputants be accorded an opportunity to have before it the defendants responses to the plaintiffs claim, as well as the plaintiffs responses to the defendants allegations in the defence before moving to adjudicate on the matters finally on merit.

It is only in this way that the court that will be seized of the matter will be in a position to have a balanced view of the matter and be able to reach a just decision in its final determination of the matter. For this reason it is necessary to have the matter reopened and the defendants papers validated to enable the defendant participate in the proceedings on an equal footing with the plaintiff.

As for ordering the suit, to be struck out, the court, is of the view that without a valid memorandum of appearance, and defence, on the record, the defendant lacks *locus standi* to attack the plaint on its merits.

Lastly the court notes that the proceedings herein were initiated by an officer of this court, against another officer of this court. One would have expected good common sense and respect to prevail and guide their conduct towards each other. I take great exception to the use of strong language in the applicants deponements. Such terminologies are nothing but breeding grounds for hatred, seeds which should never be sowed in any judicial proceeding, as their presence are likely to marr fairness and justice and prevent it from being visible to the naked eye of anybody coming across the proceedings. It is hoped that this scenario will be sorted out so that the proceedings are removed from the scenario of a personal vendetta to a normal litigation where each side is simply seeking justice from the seat of justice approached.

For the reasons given in the assessment, the court, makes the following final orders:-

- (1) The interlocutory judgment entered herein on 7<sup>th</sup> February 2008 in favour of the plaintiff as against the defendant be and is hereby set aside for the reasons given.
- (2) The defendants' memorandum of appearance and defence filed herein on 8<sup>th</sup> February 2008 and are hereby deemed to be validly filed herein.
- (3) Prayer 3 seeking the striking out of the plaint is disallowed as the defendant has no *locus standi* to attack the plaint in the absence of there being a valid memorandum of appearance and defence on the record on the basis of which the attack can be anchored.
- (4) Though the defendant gave a reasonable excuse for not filing his papers in time, namely violent chaos that followed the last general election, in the absence of a date when the counsel closed his offices for Christmas, and came back to his office, he has not demonstrated that he was under a disability for the

entire period from 17<sup>th</sup> December 2007 to 8<sup>th</sup> February 2008. For this reason the defendant/applicant will be called upon to pay to the Plaintiffs throw away costs on the interlocutory Judgment set aside as well as the application for setting aside.

**DATED, READ AND DELIVERED AT NAIROBI THIS 18<sup>TH</sup> DAY OF AUGUST 2008**

**R. N. NAMBUYE**

**JUDGE**