THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

CORAM: HON. JUSTICE L.E.M. MUKASA-KINONYOGO, DCJ
HON. JUSTICE G.M. OKELLO, JA
HON. JUSTICE A. TWINOMUJUNI, JA

CIVIL APPEAL NO.15 OF 2007

MEERA INVESTMENTS LTD…….APPELLANT

V E R S U S

THE COMMISSIONER GENERAL, URA ……..RESPONDENT

[Appeal from the ruling and orders of
the High Court (Egonda-Ntende) at Kampala
dated 28th February 2007 in High Court
Miscellaneous Application No.218 of 2006 arising from HCCS No.185 of 2006].

RULING OF TWINOMUJUNI, JA:

When this appeal came up for hearing, Dr. Joseph Byamugisha indicated that he wished to raise some matter of importance before the hearing could proceed. He was allowed to raise the matter. As it turned out, the matter he raised was that his client objected to the Hon. Deputy Chief Justice and myself sitting on this appeal because of what he called acts of impropriety exhibited by us during and after the disposal of Civil Application No.22 of 2006. To better appreciate Dr. Byamugisha's point, a brief background to this appeal is called for.

Sometime back, the respondent claimed from the appellant Ug.shs.36,514,786, 374/= allegedly being taxes and penalties due to the respondent from the appellant's real estate investments in Uganda. The appellant filed High Court Civil Suit No.185 of 2006 for a declaration, among other reliefs, that it did not owe any taxes or penalties to the respondent. It then filed Miscellaneous Application No.218 of 2006 for an order of injunction to issue against the respondent restraining it from taking any steps to recover the claimed taxes and penalties till HCCS No.185 of 2006 was finalised. The High Court heard the application and dismissed it. The appellant promptly filed this appeal against the order of the trial judge [Hon. Justice Egonda-Ntende, J]. Shortly after that, the appellant filed Court of Appeal Civil Application No.21 of 2007 renewing their application for an order of an injunction against the respondent. As that application could only be heard by a bench of three judges, who were not available then, the appellant filed Civil Application No.22 of 2007 to be heard by a Registrar or a single judge for the same order till this Court could hear Application No.22 of 2007. I was requested to hear Civil Application No.22 of 2007.

I heard the application on Thursday the 1st day of March 2007 in presence of Mr. James Nangwala and Mr. Alex Rezida who represented the applicant/appellant and Dr. Joseph Byamugisha who represented the respondent. At the end of the hearing I made the following order

> **"It is now 4.40 pm and there is not time to enable me make a reasoned ruling on the points that have been made by the parties. It follows that a future date has to be fixed to deliver my ruling. The ruling will therefore be delivered on 9th March 2007. In the meantime, this court orders that the status quo as exists at the time I am hearing this application, namely that no move to collect the taxes said to be involved in the 36 billion claim be made till after my ruling, if the application does not succeed."**

On Monday 5th March 2007, I came to my chambers and made the following order:

> "**<u>COURT ORDER</u>**
>
> **Following a resolution of the Judiciary dated 2.3.2007 in which it was resolved to suspend with effect from 5th March 2007 all judicial businesses in all Courts of Uganda, I make the following consequential orders:-**
>
> **(1) Ruling which was scheduled for delivery on 9-3-2007 will not be delivered on that day. It will be delivered on notice.**
>
> **(2) The order of interim injunction which was granted to the applicant due to expire on 9-3-2007 will remain in force till the ruling is delivered."**

It is this order which was made on 5th March 2007 that constitutes the crime I committed against Dr. Byamugisha's client for which he wants me to disqualify myself from hearing this appeal. He has no quarrel with my conduct on the 1st March 2007 nor does he quarrel with my conduct on 29th March 2007 when I delivered my ruling in Civil Application No.22 of 2007 when I granted the order of an injunction against his client.

My order dated 5th March 2007 was brought to Dr. Byamugisha's attention by a letter written by the Registrar on that day communicating the contents of my order. On 13th March Dr. Byamugisha wrote to the Deputy Chief Justice, who is my immediate boss, as follows:-

> **"Yesterday I received a letter from Uganda Revenue Authority (URA) a photocopy of which is annexed hereto. My client and URA as a whole are concerned that:**
>
> - **Hon. Twinomujuni J.A made the order complained of (a copy of which is annexed hereto) on the 5th of March 2007, during the nationwide strike of all judicial officers;**

- **The order is therefore most probably illegal;**
- **The order was granted ex parte;**
- **While the order of 2nd March 2007 was that**

> ***'No move be made for collection of the disputed tax of shs.36,514,786,374/= until the 9th of March 2007 when the ruling will be delivered,'***
>
> **Hon. Twinomujuni, J.A. calls his new order an *'order of interim injunction'*, which he then leaves open, sine die.**
>
> **I have discussed the above matter with Uganda Revenue Authority, who strongly believes that Hon. Twinomujuni, J.A did not, in making the order, act judicially, independently or impartially.**
>
> **For the foregoing reasons I am instructed to write this letter, with a copy to Hon. Twinomujuni, J.A asking him to hand over the court file to you, so that you may assign it to another Justice of Appeal."**

The letter was signed by a certain JOSEPH B. BYAMBARA which I presumed was Dr. Byamugisha as the letter was on a headed paper of his firm. The letter was allegedly copied to me, but in fact I only saw the copy written to the Deputy Chief Justice. I have known Dr. Byamugisha to grumble, quarrel and become abusive when he looses a suit or an application. I treated this letter containing the most malicious but unsubstantiated allegations against me with the contempt I believed it deserved. However, since it was addressed to the Hon. Deputy Chief Justice, she instructed the Registrar of the Court, Mr. Joseph Murangira to reply as follows:-

> **"I am under the instructions of the Hon. Deputy Chief Justice to reply to your letter of even reference dated March 13th 2007 as herebelow:-**
>
> **1. That the Hon. Deputy Chief Justice observes that though the courts had put down their tools, this did not take away the jurisdiction and independence of any judge. And that as such**

in order to prevent abuse of any process during the period our court could not be operational to the public, the trial judge had power to extend the time within which to do an act.

2. **That there was no order, which was granted, ex parte; as you seem to indicate.**

3. **That for the reasons given above, there is no way one could fault the trial court on what it did on March 2, 2007."**

This letter constitutes the crime the Deputy Chief Justice committed for which Dr. Byamugisha's client allegedly wishes her to disqualify herself from the hearing of this appeal.

In making his submission before us, that I should disqualify myself because of the reasons he put in his letter of 13th March 2007, he did not elaborate any further except to add that:

> **"The beneficiary of the Justice of Appeal's order is one of the riches (sic) companies in Uganda. You had humble persons on remand who could not be brought to court to apply for bail, in police custody who could not be produced to court to apply for bail within 48 hours and many other litigants whose cases were due to be heard over the period which cases were not handled by any judge."**

The accusation that I had on 5-3-2007, "not acted independently, professionally, legally or impartially" imports a very clear meaning to every judicial officer. Coupled with the innuendos that the beneficiary was one of the richest companies in Uganda speaks it all. Dr. Byamugisha was accusing me of having been influenced by bribes of one of the richest companies in the land to take the decision I took. All that, without producing an iota of evidence against me. He used the platform provided by our court process to defame me at will without producing any evidence to support his malicious allegations.

The requirement that a judicial officer must be independent, impartial and professional is cardinal principles enshrined in our oath of office and in our Judicial Code of Conduct. For Dr. Byamugisha to accuse me of breach of the judicial oath and the Judicial Code of Conduct without producing any reasonable evidence shows clearly that he has no professionalism himself to speak about. I have said above that I know that Dr. Byamugisha is in the habit of going into feats of anger, name calling and use of abusive language whenever he looses cases in court. I will give only one example from many others that are on record in our courts:-

High Court Election Petition No.05-CV-EPA.003 of 2001 was fixed for hearing in Mbarara High Court before Hon. Justice Egonda-Ntende. When the case was called for hearing, Dr. Byamugisha objected to the learned judge hearing the case and asked him to withdraw. I will let the ruling of Hon. Justice Egonda-Ntende speak for itself:

"RULING:

1. **When this case was called for hearing, Dr. Joseph Byamugisha, learned counsel for respondent No.1, raised an objection, to my presiding over the hearing of this petition. The ground for the objection was as shocking as it was unusual. Dr. Byamugisha submitted that he had reason to object to my sitting as a judge in H.C.C.S. No.650 of 1991 C. Kayoboke v Amos Agaba and others sometime in 1993. In that case he was one of the defendants. In light of that objection, he stated that he had intimated to his client, respondent No.1, that it may be difficult for him to represent him in this case. The respondent No.1 then instructed Dr. Byamugisha to object to my sitting as a judge in this case as my impartiality is questioned. He referred to rule 7 of the judges Code of Conduct, I suppose, to provide authority for his application.**

2. Dr. Byamugisha further submitted that he would have no objection if I provided assurances to his client that he would not have problems in this matter.

3. Mr. Deus Byamugisha, learned counsel for respondent No.2 submitted that he left the matter to my conscience and judgment.

4. Mr. Mbabazi, learned counsel for the petitioner, submitted that the objection was unfounded with no supporting grounds. He prayed that the same be rejected.

5. I recall that sometime in 1993 I was hearing the case of Kayoboke v Amos Agaba and others, referred to by Dr. Byamugisha. It is true that he was one of the defendants in the matter. He was also, I recall, counsel for the defendants too. I recall making a ruling on some matter where I questioned the propriety of a party in a matter acting as counsel in the same matter. Thereafter, some objection was raised with the Principal Judge over my handling of that case. The objection was not raised directly before me. I decided to bow out of the matter.

6. If I understand Dr. Byamugisha correctly, it is because of that 'objection' that he raised in that case, that prompted him to inform his client that it may be difficult for him to represent respondent No.1 in this matter. Hence the instructions to object to my presiding over this matter. He referred to this matter as delicate, and stated that he was being as polite as possible.

7. I asked Dr. Byamugisha if he has ever appeared before me in any matter since that case to-date. He replied that he had appeared before me in two matters in which there was no problem but they were not of such magnitude as the current matter.

8. I have had some difficulty to understand the true thrust of the objection, It is suggested that it is my impartiality, in relation to counsel, that is suspect, but not against any of the parties, though one of the parties had decided to found an objection on this allusion. I am unable to draw a connection, with an objection that was never raised before me in one case, 9 years

ago, and the case now before me. Dr. Byamugisha did not show me any connection between the two. As a result, I am unable to accept the objection raised by Dr. Byamushisha. It is overruled with costs.

9. I think the following words of Wambuzi, CJ, (as then was), are apt.

> ***'To conclude I must state that there is a growing tendency in these courts to lay false accusations of bias either to avoid certain judicial officers handling their cases or to cause delay in the disposal of cases. There is a growing tendency to allege corruption or bias when parties loose their cases. No one in this country has a right to choose which judicial officer shall determine his or her case. All judicial officers take the judicial oath to administer justice to all manner of people without fear or favour, affection or ill-will. Judicial officers have a duty to prevent delays on flimsy or unsubstantiated grounds."***

10. These remarks have been in repeated in Uganda Plybags Ltd v Development Finance Co. Ltd and 3 others, Supreme Court Mis. App. No.2 of 2000. The Supreme Court had this to say,

> ***'Before we take leave of this matter we would like to reiterate our concern which was expressed in Constitutional Application No.1 of 1997 Tinyefuza v Attorney General and Civil Application No.9 of 2000 G.M. Combined (U) Ltd v A.K. Detergent (U) Ltd., over the growing tendency to level charges of bias or likelihood of bias against judicial officers. We would like to make it clear that litigants in this country have no right to choose which judicial officers should hear and determine their cases. All judicial officers take the oath to administer justice to all manner of people impartially, and without fear, favour, affection or ill-will. That oath must be respected.'***

11. I understand that the respondent No.1 wanted assurances that he would not have any problems. I am unable to give such assurances beyond the judicial oath that I subscribed to before the President on or about the 21st November 1991. It is not for me to anticipate what is to happen in cases I am hearing.

12. Finally, I may state for the record that this case was originally before my brother, Kagaba, J. Because of the load of the work Kagaba J, had, the Principal Judge requested that I take over the hearing of this case. I complied with the request.

13. I wish to make it very clear that I am not overanxious to be here in Mbarara, sitting to hear this case, with the result that I am away from my family in Kampala, for personal reasons. I return to this country four months ago after an absence of almost two years. Two months ago my father passed away. I prefer to be in Kampala with my family while at the same time I spend sometime sorting our issues related to my father's estate. I am here in Mbarara under a sense of obligation that the law and my conscience impose upon the judges of this nation to do justice to all manner of people without fear or favour, affection or ill-will. Personally I would wish to be elsewhere and I must say that I was tempted to do so by the opportunity presented by this objection. I am, however, constrained to respect my oath of office.

Delivered at Mbarara this 5th day of February 2002.

F.M.S. Egonda-Ntende
Judge".

I have decided to reproduce the whole ruling of the learned trial judge because he expresses his feeling the way many judges, who have been under a similar attack in the High Court, by Dr. Byamugisha, feel. I feel exactly in the same way when a senior lawyer of Dr. Byamugisha's standing recklessly throws false accusations at me in the open court. He may be playing this game for the gallery or the press. However, he must know that if he cannot substantiate, his game has gone too far.

In that case as in this case, Dr. Byamugisha uses the fact that a court ruling has gone against him to smear and character assassinate the trial judge. In that case, the ruling in question was made 9 years before the objection was raised in an entirely different case with entirely different parties. Dr. Byamugisha lay low

for all these years waiting to have his revenge even though nine years before, the trial judge had succumbed to the accusations and withdrawn from the case. Dr. Byamugisha hoped to use the same tactics to remove Justice Egonda-Ntende from hearing the Election Petition. This time, the learned judge stood his ground and overruled Dr. Byamugisha.

Now, the doctor's tactics are well known in the High Court. He must try elsewhere. This time he has moved to the Court of Appeal where he has recently lost some cases concerning the same parties and other parties. He now wishes to dictate to this court which judge should hear his cases. He knows that is not easy. He must now resort to his old High Court tactics. So the Hon. Deputy Chief Justice and myself are the next victims. His character assassination of me can be likened to the recent character assassination of the Hon. the Deputy Chief Justice and Hon. Justice Remmy Kasule by some opposition leaders in this country. The judges were accused of getting millions of shillings in bribes in order to decide certain election petitions in a particular way. The accusers did not produce any evidence to support those most malicious allegations. The long hand of the law caught up with them. It will be only a matter of time before the law catches up with Dr. Byamugisha.

Now we find ourselves in a very similar situation. The obvious innuendo is that around 5th of March 2007 when the entire judiciary was deliberating on how to counter the most violent attack on its dignity in decades, myself and the Deputy Chief Justice were busy receiving bribes from the so called richest company in Uganda in order to decide the application in its favour. I entirely deny these accusations. I challenge Dr. Byamugisha to come forward with the evidence if he has any. If he does not have any, he deserves to face the Law Council of this country. Nobody, including Byamugisha has the right to character assassinate anybody else and get away with it. Yet the good doctor has character

assassinated many judges in this way. It has become his stock in trade instead of the law books.

I am aware that Dr. Byamugisha claims that it was his client who instructed him to accuse me of acting illegally and failing to act independently, impartially and professionally on 5th March 2007. I have seen the letter from the Uganda Revenue Authority dated 12th March 2007 instructing him to protest against the order of 5th March 2007. In that letter, they do not allege anywhere that **"I acted illegally"** and did not act **"independently, impartially and professionally."** That was a figment of Dr. Byamugisha's mind. Because he was determined to destroy our character, he failed to follow the procedure, any reasonable lawyer would have followed in raising his complaint.

In the recent decision of the East African Court of Justice in **Attorney General of the Republic of Kenya vs Prof Anyang' Nyogo & 10 Others, Application No.5 of 2007,** the court had occasion to discuss the procedure to be followed in such matters. The court stated:-

> **"With regard to an application for a judge to recuse himself from sitting on a Coram, as from sitting as a single judge, the procedure practiced in the East African Partner States, and which this court would encourage litigants before it to follow, is similar to what was succinctly described by the Constitutional Court of South Africa in *The President of the Republic & 2 Others vs. South African Rugby Football Union & 3 Others,* (Case CCT 16/98) (the *S.A. Rugby Football union Case).* The court said at para 50 of its judgment:**
>
> > ***'….The usual procedure in applications for recusal is that counsel for the applicant seeks a meeting in chambers with the judge or judges* in the presence of [the] opponent. *The grounds for recusal are put to the judge who would be given an opportunity, if sought, to respond to them. In the event of recusal being refused by the judge the applicant would, if so advised, move the application in open court.'***

The rationale for and benefit from that procedure is obvious. Apart from any thing else, in practical terms it helps the litigant to avoid rushing to court at the risk of maligning the integrity of the judge or judges and of the court as a whole, without having the full facts, as clearly transpired in the instant case."

If Dr. Byamugisha, who enjoys to be called senior counsel, was being moved by proper motives in making these accusations allegedly on behalf of his client, he would have used the above procedure which any senior counsel is presumed to know.

The order which Dr. Byamugisha complains about was made on 5th March 2007. By the time he complained to the Deputy Chief Justice by his letter dated 13th March 2007, he was already convinced that I was corrupt as he alleged. Yet, though he indicated on that letter and other subsequent letters he exchanged with this Court that he copied them to me, I never received any copies as he claimed. Mr. Murangira, the Registrar showed me the accusations from the copy addressed to the Deputy Chief Justice. Even on 29th March 2007 when my ruling was delivered, he never raised the matter with me or the Deputy Chief Justice in accordance with the established procedure.

In September this year, I sat with a panel of judges constituted by the present panel to adjudicate on the appeal between the very same parties as in this appeal. The case was Civil Appeal No.3 of 2007 **Commissioner General of Uganda Revenue Authority vs. Meera Investments Ltd** Dr. Byamugisha, Mr. Nangwala and Mr. Rezida were counsel for the parties exactly as was the case in March 2007. Dr. Byamugisha did not raise any objection to myself or the Deputy Chief Justice being on the panel. He laid his ambush until he lost that appeal as he had done with Hon. Justice Egonda-Ntende. His opportunity to strike arose when this appeal was called for hearing on 1st November 2007.

A similar matter was discussed in the decision of the East African Court of Justice (supra) where their Lordships stated:-

> **"From the authorities we have consulted, the prevalent view, with which we agree, is that a litigant seeking disqualification of a judge from sitting on the ground of appearance of bias must raise the objection at the earliest opportunity. The Court of Appeal of Kenya in *Ole Keiwua vs. Chief Justice of Kenya & 6 Others, 2006 KLR,* expressed the same view thus:-**
>
> > ***'We appreciate the fact that a party to any judicial proceedings has a right to object to any judge or judicial officer sitting if he or she has a good reason for raising such objection. However, whoever intends to raise such objection is obliged to raise his objection at the earliest opportunity.'***
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> **……**
>
> **……**
>
> **We respectfully agree that a litigant who has knowledge of the facts that give rise to apprehension of possibility of bias ought not to be permitted to keep his objection up the sleeve until he finds out that he has not succeeded. The court must guard against litigants who all too often blame their losses in court cases to bias on the part of the judge. In the *S.A. Rugby Football Union case* (supra) para 68 the court observed:-**
>
> > ***'Success or failure of the government or any other litigant is neither ground for praise or for condemnation of a court. What is important is whether the decisions are good in law, and whether they are justifiable in relation to the reasons given for them. There is unfortunate tendency for decisions of courts with which there is disagreement to be attacked by impugning the integrity of the judges, rather than by examining the reasons for the judgment….. Decisions of our courts are not immune from criticism. But political discontent or dissatisfaction with the outcome of the case is no justification for recklessly attacking the integrity of judicial officer."***

In the same case of **South African Rugby Football Union case** para 104 (supra), the Constitutional Court of South Africa stated:

> ***'While litigants have the right to apply for the recusal of judicial officers where there is a reasonable apprehension that they will not***

decide a case impartially, this does not give them the right to object to their cases being heard by particular judicial officers merely because they believe that such persons will be less likely to decide the case in their favour…….. The nature of the judicial function involves the performance of difficult and at times unpleasant tasks. Judicial officers are nonetheless required to 'administer justice to all persons alike without fear, favour or prejudice in accordance with the Constitution and the Law. To this end they must resist all manner of pressure, regardless of where it comes from. This is the constitutional duty common to all judicial officers. If they deviate, the independence of the judiciary would be undermined and in turn the Constitution itself.'

In his conduct before the High Court Judges and now before this Court, Dr. Byamugisha deliberately refuses to heed these words of wisdom.

Finally, let me now make specific response to the allegations made against me in Dr. Byamugisha's letter dated 13th March 2007.

(1) <u>That I made the order complained of during the nationwide strike of all judicial officers:</u>

Although on 2nd March 2007 the most senior judicial offices called upon all judicial officers to down their tools till our grievances were addressed, no order was ever made to close courts or judges chambers. The judges, including myself continued to appear in their chambers and to do chamber work but mainly judgment writing. Dr. Byamugisha wants the public to believe that I made the extension in my order of 1st March 2007 on a day on which I was not supposed to be in the office. In fact, our offices were open and the Registrar's letter informing him of the extension of the order was dated 5th March 2007 indicating clearly that work was going on at the Court of Appeal. It is also significant to know that the Uganda Law Society of which Dr. Byamugisha is a member, supported and participated in a public protest in support of judges.

(2) That the order was illegal:

On 1st March 2007 in presence of all counsel including Dr. Byamugisha, I ordered that I would deliver my ruling on 9th March 2007 and that the status quo would be preserved till that day. On 5th March 2007 I ordered that because of the judge's action which was in progress, the ruling would be delivered on notice and the status quo would continue until then. I did not change the substance of the order I had made on the 1st March 2007. There is absolutely nothing illegal about this act which was done in good faith as soon as I discovered that I would not be able to deliver the ruling on 9th March as I had promised.

(3) That I made the order Ex parte:

Blacks Law Dictionary defines the expression Ex parte to mean

> **"One sided only; by or for one party; one for, in behalf of, or on the application of, one party only.**
> **A judicial proceeding, order or injunction e.t.c. is said to be ex parte when it is taken or granted at the instance or for the benefit of one party only, and without notice to or contestation by, any person adversely interested."** [Emphasis mine]

By now, it is common knowledge that on 5th March 2007 when I made the impugned order, neither counsel for the applicant nor counsel for the respondent was present. An ex parte order is that one made in the manner as defined in Blacks Law Dictionary. It is a pity that I have to teach a former University Professor and my former lecturer the meaning of **EX PARTE.** It should also be noted that the order did not give benefits to any party that had not benefited from my order of 1st March 2007.

(4) That in making the order, I did not act independently, impartially or judiciously:

I have already partly dealt with this allegation. Dr. Byamugisha did not produce an iota of evidence to support these allegations. I am accused of being in breach of the judicial oath of office, the Judicial Code of Conduct and the Leadership Code. If these allegations are proved to be correct, they are enough to have me removed from the bench as a jducial officer. All this merely because the good doctor has lost some cases before a panel in which I happen to be a member!! Dr. Byamugisha must produce evidence to support these grave accusations.

(5) That I acted the way I did because the beneficiary is one of the richest companies in this country:

The obvious innuendo here is that I was bribed to make the extension of 5th March 2007. This allegation is similar and only an emphasis of the allegation of (4) above. No evidence whatsoever. Dr. Byamugisha who is employed by some of the richest companies and the most powerful individuals in this country thinks that I earn my living in a similar manner. He uses that association to intimidate the courts to decide the way his masters want. He uses that association to intimidate the courts and wishes to choose who should hear his cases. In many cases he has been successful and has achieved all that. I must warn him however, that he will not succeed in intimidating me in the same way. On that matter, I am as solid as the Rock of Ages. Though my job is not as highly paid as his, yet unlike him, I respect my office, my judicial oath and the Constitution of this Republic. I also respect the offices of other people. If he really has evidence, I challenge him to take it to the law Council or to the Judicial Service Commission. If he does not have the evidence, then he should shut up and let the courts do their work.

In arriving at the decision I am about to arrive at, I take guidance from the **CARTER – ARTIS CASE 1981** a decision of the Supreme Court of New Jersey in United States. The court was faced with an application similar to the one now before us. Their Lordships observed:-

> **"A review of the basic cases, citing 536 Broad Street v Valco Mortgage Company, 125 Equity, 581, 1944, affirmed, 136 Equity, 513, Errors and Appeals, indicates that the challenger must adduce proof of the truth of the charges and as to the sufficiency of such proofs the Judge himself must decide. The mere filing of an affidavit of prejudice does not deprive the Judge of the jurisdiction, but permits him to pass on its sufficiency and to dispose of the question of disqualification raised by it, in the same manner as any other question that may come before him during the trial. As to the sufficiency of such proof of disqualification the Judge himself must decide. Not only is a Judge not required to withdraw from the hearing of a case upon a mere suggestion that he is disqualified to sit, but 'it is improper for him to do so unless the alleged cause of recusation is known by him to exist, or is shown by proof to be true in fact.' See Clawns v Schakat, 49 N.J. Super, 415. The court held, a mere suggestion that a Court is disqualified to sit is not sufficient and it is in fact improper for him to do so."**

For all the reasons I have given in this ruling and relying on the authorities I have cited therein, I will not, and I have no reason to accept that I recuse myself from the hearing of this appeal because of what I did on 5th March 2007. This application should be dismissed with costs to the appellant/respondent.

Dated at Kampala this……27th …..day of…November…..2007.

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Hon. Justice Amos Twinomujuni

JUSTICE OF APPEAL.