

THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA  
HOLDEN AT KAMPALA  
(CIVIL DIVISION)

H.C.C.S NO. ....117..... OF 2021



WERIKHE PETER CHRISTOPHER.....PLAINTIFF

VERSUS

1. KANYANA EZRA-GENERAL SECRETARY OF NUTDOW
2. NATIONAL UNION OF THEATRICAL,  
DOMESTIC GENERAL WORKERS  
(NUTDOW)
3. USHER WILSON OWERE.....DEFENDANTS



PLAINT

1. The Plaintiff is a male adult Ugandan of sound mind and the **SUBSTANTIVE SECRETARY GENERAL OF THE NATIONAL ORGANIZATION OF TRADE UNIONS** (hereinafter referred to as "NOTU") and whose address for purposes of this suit is C/o M/s Mungoma, Mabonga, Wakhakha & Co. Advocates, Plot 54, Kampala Road, Mukono Town Council, P.O. Box 123, Mukono.
2. The 1<sup>st</sup> defendant is a male adult Ugandan presumed to be of sound mind and he is employed as General Secretary of National Union of Theatrical Domestic and General Workers (hereinafter referred to as "NUTDOW"). The plaintiff's Advocates undertake to effect Court Process unto him.
3. The 2<sup>nd</sup> defendant is a body corporate capable of suing and being sued and is an affiliate of NOTU.
4. The 3<sup>rd</sup> defendant is a male adult Ugandan presumed to be of sound mind and he serves as Chairman General of NOTU. The plaintiff's Advocates undertake to effect Court Process unto them.
5. The plaintiffs are seeking for the following orders:-
  - a. A Declaration that the defendants are not seized and/or clothed with any authority to require the plaintiff to vacate the office of

the Secretary General of NOTU, nor the Board of Directors and trusteeship, NSSF Board.

- b. A Declaration that the defendants do not have locus to demand for the resignation of the plaintiff from the office of the Secretary General NOTU and to relinquish his trusteeship on the Board of Directors, NSSF.
  - c. An Order of Estoppel.
  - d. A Declaration that the 2<sup>nd</sup> defendant isn't a **paid up member** of NOTU.
  - e. A permanent injunction.
  - f. A declaration that National and Local Political activities are part and parcel of the activities of NOTU/Centre and the 1<sup>st</sup> and 3<sup>rd</sup> Defendants participated in the said elections and lost the same.
  - g. A declaration that the defendants demand to the plaintiff to resign prior to his participation in partisan elections amounts to infringement of the Plaintiff's right to hold the office of the Secretary General and the trusteeship of the NSSF Board of Directors.
  - h. A declaration that the defendants have jointly and severally slandered and defamed the plaintiff.
  - i. A declaration that the plaintiff's participation in elections is his Constitutional right nor was his participation breached any provisions of the Constitution of Uganda and the Labour Union ACT, 2006.
  - j. A declaration that the NOTU Constitution is ultra vires of the Constitution OF Uganda in respect of partisan elections.
  - k. A declaration that the 3<sup>rd</sup> defendant in his capacity as Chairman General doesn't have the mandate to require the plaintiff to vacate the office of Secretary General and the trusteeship and Board membership of NSSF.
  - l. General damages for slander and defamation.
  - m. Costs
6. The brief facts constituting the plaintiffs' cause of action against the defendants are as follows:-
- i. The plaintiff is employed as the Substantive Secretary General of NOTU.

- ii. The 1<sup>st</sup> defendant is employed as a substantive General Secretary of NUTDOW.
- iii. The 2<sup>nd</sup> defendant is an affiliate of NOTU but is not a paid up member.
- iv. The 3<sup>rd</sup> defendant is serving as the Substantive Chairman General of NOTU.
- v. In the month of September 2020, the Plaintiff took his annual leave from duty, ending on the 30<sup>th</sup> April 2021 and he appointed AMITI TOM to hold the office of Secretary General of NOTU in acting capacity. The said AMITI TOM assumed that office on 4<sup>th</sup> September 2020 and is running the said office to date.
- vi. On the 9<sup>th</sup> day of February 2021, the 1<sup>st</sup> and 2<sup>nd</sup> defendant instructed M/S AEQUITAS Advocates to write to the Plaintiff requiring him to resign/vacate the office of the Secretary General and Board Member/Trustee NSSF on account of holding them unlawfully. **A copy of the said letter is annexed hereto and marked "A".**
- vii. The said letter alleged among other things, his desertion of the NOTU, resulting into its members suffering, being disadvantaged and ridiculed.
- viii. That the plaintiff also;
  - Offered himself to be elected as MP on a partisan ticket in contravention of the NOTU Constitution.
  - That in his capacity as a Public Servant, he didn't resign from the NSSF Board (90) ninety days prior to nominations of Member of Parliament.
  - That he is guilty of mismanagement of property and financial impropriety which includes the state house grant and Njeru land.
- ix. That the defendants required the plaintiff to resign from NOTU as Secretary General and from the Board of Directors, NSSF and required him to call for a General Council Meeting and have the books of accounts audited.
- x. The said letter was copied and circulated to the following;
  - OFFICES OF NOTU STAFF AND MEMBERS
  - THE REGISTRAR OF TRADE UNIONS
  - HEAD OF STATE HOUSE ANTI CORRUPTION UNIT

- PERMANENT SECRETARY, MINISTRY OF GENDER, LABOUR AND SOCIAL DEVELOPMENT
- THE CHAIRMAN ELECTORAL COMMISSION
- THE CHAIRMAN, BOARD OF DIRECTORS, NSSF
- CHAIRMAN GENERAL, NOTU
- GENERAL SECRETARIES OF NOTU AFFILIATED UNION
- ALL MEMBERS OF THE NOTU, GENERAL COUNCIL

xi. The said letter's contents which is quoted verbatim as hereunder;-

**"any leader of the National Centre shall not be a member of a political league or stand on any Political party ticket at any level and where any Federation leader chooses to hold any party position he/she shall relinquish his/her position in the National Centre"**

**" 3. that prior and upon your nomination, you spent all your time in Bubulo West Constituency electioneering for support to which you were successfully elected Member of Parliament (MP) for the same Constituency. While we congratulate you upon your victory, it is worth noting that, during this period and therefore, no activity ever took place in an effort to serve the members that include our client. As a Chief Executive Officer and spokes Person of NOTU serving on a fulltime basis, you are required by ARTICLE (9) (4) of the NOTU Constitution to perform functions that promote the purpose and objectives of the Centre. You neither did this nor even delegated your responsibilities to any of your deputies to run the office on your behalf while you were away.**

**4.that being a Public Servant in the capacity of NSSF Board Member, you were also required to resign from that office at least ninety (90) days to the date of nomination as is required by the**

law and the electoral commission guidelines. This way the workers would have got a replacement for continuity; yet you ignored this and acted with impunity by continuing to serve on the Board to the disadvantage of workers who were unable to get effective representation through continued consultations, guidance and advocacy especially during the critical stage of debate on the amendment of the NSSF Act that is currently before Parliament. It is believed that because of this, several workers including leaders of affiliated members of NOTU have advanced contradictory positions on the matter for lack of proper direction from the office of secretary general who is the chief executive officer and official spokesperson of the workers in the country."

The contents of the said letter which was circulated widely to very important offices and their bearers has lowered the reputation, esteem of the plaintiff in the eyes of the right thinking members of society.

#### PARTICULARS OF DEFAMATION

- a. That the plaintiff abused his office.
  - b. That the plaintiff lacks integrity and is a person of impropriety in the conduct of public affairs.
  - c. That he is incompetent and has acted with impunity.
  - d. That he is callous and doesn't care about the NOTU members.
  - e. That the plaintiff in participation of the partisan elections acted illegally, unconstitutional and in breach of the Law.
7. That in their natural and ordinary meaning, the said words meant and were understood to mean that the plaintiff is incompetent, abused his office, acted in breach of the Constitution as the Law and is occupying the office of Secretary General and Board and/trusteeship NSSF board , illegally.

8. That the 1<sup>st</sup> and 2<sup>nd</sup> defendants do not have the mandate to require the plaintiff to do any of the acts they were requiring him to do so, as the 2<sup>nd</sup> defendant is not a paid up affiliate member of NOTU.

9. The 3<sup>rd</sup> defendant on the 13<sup>th</sup> February 2021 wrote a similar letter using a forged letter head to the plaintiff with the same allegations and demands whose particulars are;-

**"In my capacity as Chairman General of NOTU I received a letter on the 12<sup>th</sup> February 2021 dated 3<sup>rd</sup> February 2021 with the above subject matter from AEQITAS Advocates acting on behalf of their client brother EZRA KANYANA the General Secretary of National Union of Theatrical Domestic and General Workers (NUTDOW) who is also a member of NOTU.**

**The letter has many allegations that in my view may tint the image of NOTU if not addressed and corrected immediately. The best procedure is to follow the law and address these issues.**

**However, they gave conditions to follow as we try to address these issues and number one says, "You convene a NOTU general Council Meeting as soon as possible in any case on a date that is not later than Friday 19<sup>th</sup> February 2021 to discuss your conduct and to agree on a way forward"**

**The purpose of this letter is to direct you as follows;**

- 1. That in your capacity as Secretary General of NOTU, you call the said meeting (General Council) before the stated date (19<sup>th</sup> February 2021) such that we can redeem the image of our organization.**
- 2. That you prepare a good defense based on evidence before the Council especially on the allegations of Financial Impropriety and**

Property Mismanagement as well stated in the letter (here attached)

Be informed that, should you fail to call this meeting as directed by the litigants, for the sake of the Labour Movement and for the sake and image of NOTU which supersedes all of us, I will invoke the NOTU constitution and the relevant National Laws to call an emergency meeting to address the same issues where you will then be summoned to appear and explain yourself to the General Council....."

#### PARTICULARS OF DEFAMATION

3. That the plaintiff abused his office.
4. That the plaintiff lacks integrity and is a person of impropriety in the conduct of public affairs.
5. That he is incompetent and has acted with impunity.
6. That he is callous and doesn't care about the NOTU members.
7. That the plaintiff in participation of the partisan elections acted illegally, unconstitutional and in breach of the Law.
10. That in their natural and ordinary meaning, the said words meant and were understood to mean that the plaintiff is incompetent, abused his office, acted in breach of the Constitution as the Law and is occupying the office of Secretary General and Board and/trusteeship NSSF board , illegally.
11. That the 1<sup>st</sup> and 2<sup>nd</sup> defendants do not have the mandate to require the plaintiff to do any of the acts they were requiring him to do so, as the 2<sup>nd</sup> defendant is not a paid up affiliate member of NOTU.
12. The 3<sup>rd</sup> defendant in writing and circulating this letter, a copy of which is annexed hereto, acted in bad faith due to the following:-
  - The Chairman General in his roles his got the mandate to write on behalf of the organization using its headed paper.
  - That he used a forged letter head which gives a false address of the organization.
  - That his role is to Chair Council meetings to which he has been invited.

- The 1<sup>st</sup> and 3<sup>rd</sup> defendants' participation in the National and Local elections this year and failed in their respective bids.
- The 1<sup>st</sup> and 3<sup>rd</sup> defendants didn't resign from their Portfolios nor did any of the things they were requiring the plaintiff to do.
- The defendants were actuated with malice and bad faith in their said publications.
- The plaintiff shall ask the Honourable Court to Order the defendants to pay General Damages of Ug shs 100,000,000/=(One Hundred Million Shillings) for defamation.

13. The actions of the defendants have caused inconvenience lowered his self esteem in the eyes of right thinking members of society, embarrassment and greatly impacted on the plaintiff.

14. Notice of intention to sue was served upon the defendants but was ignored.

15. The cause of action arose at Kampala District within the jurisdiction of this Honourable Court.

**WHEREFORE** the plaintiff prays that judgment be entered severally and jointly against the defendants with **ORDERS**;

- a. A Declaration that the defendants are not seized and/or clothed with any authority to require the plaintiff to vacate the office of the Secretary General of NOTU, nor the Board Membership and trusteeship NSSF Board.
- b. A Declaration that the defendants do not have locus to demand for the resignation of the plaintiff from the office of the Secretary General NOTU and to relinquish his trusteeship on the Board of Directors, NSSF.
- c. An Order of Estoppel.
- d. A Declaration that the 2<sup>nd</sup> defendant isn't a paid up member of NOTU.
- e. A permanent injunction.
- f. A declaration that National and Local Political activities are part and parcel of the activities of NOTU/Centre and the 1<sup>st</sup> and 3<sup>rd</sup> Defendants participated in the said elections and lost the same.
- g. A declaration that the defendants demand to resign prior to his participation on partisan elections amounts to infringement of the



Plaintiff's right to hold the office of the Secretary General and the trusteeship of the NSSF Board of Directors.

- h. A declaration that the defendants have jointly and severally slandered and defamed the plaintiff.
- i. A declaration that the plaintiff's participation in elections is his Constitutional right nor was his participation breached any provisions of the Constitution of Uganda and the Labour Union ACT, 2006.
- j. A declaration that the NOTU Constitution is ultra vires of the Constitution OF Uganda in respect of partisan elections.
- k. A declaration that the 3<sup>rd</sup> defendant in his capacity as Chairman General doesn't have the mandate to require the plaintiff to vacate the office Secretary General and the trusteeship and Board membership of NSSF.
- l. General damages for slander and defamation.
- m. Costs
- n. Any other relief this Honorable court may deem fit

Dated this 7<sup>th</sup> day of April 2021

  
.....  
COUNSEL FOR PLAINTIFF

Drawn & filed by  
Mungoma, Mabonga,  
Wakhahka & Co. Advocates,  
P. O. Box 123, Mukono