

SECURITY CLEARANCE OF COURT ORDERS **DECLARED ILLEGAL**

By Michael Odeng

The Constitutional Court has ruled that subjecting court orders to security clearances is illegal and should stop henceforth.

According to the court, subjecting court orders to security clearances amounts to interference by security organs in their enforcement, undermines the independence of the judiciary and violates provisions of the Constitution.

The ruling followed a petition by the Court Bailiffs Association against the Attorney General in 2023, in which they challenged provisions of the Judicature (Court Bailiffs) Rules, 2022, alleging that there was continued interference of the executive in the execution of court orders through security agencies.

In a landmark judgment dated January 20, 2026, a panel of justices led by John Mike Musisi stated that requiring court bailiffs to seek "clearance" from Resident District Commissioners (RDCs), District Security Committees (DSCs), or other executive authorities before executing court orders



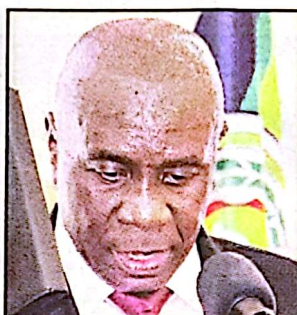
Justice Egonda-Ntende

was unconstitutional.

Other justices on the panel were Fredrick Egonda-Ntende, Ketrah Kitarisibwa Katunguka, Florence Nakachwa and Dr Flavian Zeija, who adjudicated the matter when he was the deputy chief justice. Zeija is now the chief justice.

"The petitioners have demonstrated the existence of a pattern of the executive's involvement in the execution of court orders that undermines the judicial power vested in the courts," Musisi noted.

According to the justices, the court bailiffs presented evidence showing that they were required to obtain "clearance" from RDCs, DSCs or other executive



Justice John Mike Musisi

authorities before carrying out lawful court executions.

The justices noted that in some cases, security organs or local government officials issued directives halting or suspending executions or subjected judicial warrants to executive verification, clearance or approval.

"The administrative practices had subordinated judicial execution processes to executive oversight and control," Musisi observed.

The court heard that the practices made the work of court bailiffs expensive and difficult, with bailiffs allegedly being charged money at various clearing centres.

REMUNERATION

With respect to Rule 23 and Schedule 3, the justices observed that the provisions establish a structured remuneration framework comprising a fixed scale of bailiffs' fees alongside provision for the recovery of actual and verifiable expenses.

The bailiffs had asked court to declare the fixed scale of their fees as illegal. This would allow them to charge varying fees based on the job at hand.

According to the justices, the framework is designed to ensure fair and reasonable compensation while safeguarding against abuse through inflated or unjustified claims by the court bailiffs.

The justices stated that the rules prescribing minimum educational qualifications for the appointment and licensing of court bailiffs are not unconstitutional.

Under the rules, court bailiffs are required to possess at least a diploma in law. Those who do not meet the requirement are granted a two-year transitional period within which to obtain the qualification in order to remain eligible for license renewal.

The bailiffs were represented by lawyer Dr Akampumuza Bitanga, while the Attorney General was represented by Senior State Attorneys Suzan Akello and Jackie Amusuguti.

However, the court stated that scrutiny or verification of court orders by security agencies, undertaken as part of their role in maintaining law and order, is legitimate.

But the justices said such

scrutiny must be limited to confirming the authenticity of court processes and must not be used to question, suspend or obstruct the execution of lawful court orders.

The justices said security

agencies may lawfully participate in maintaining peace and order during potentially volatile enforcement exercises such as land evictions.

GROUND'S DISMISSED

The Constitutional Court dismissed other grounds in the petition, challenging the legality of the Judicature (Court Bailiffs) Rules, 2022.

The bailiffs' association had argued that the rules were unconstitutional because they were allegedly unsigned by the Chief Justice before gazettelement and were not laid before Parliament as required under the Judicature Act.

However, the court ruled that there is no constitutional or statutory requirement for statutory instruments published in the Gazette to bear the handwritten signature of the Chief Justice.

According to the court, the requirement to lay statutory instruments before Parliament is intended to facilitate parliamentary oversight and is not a condition precedent to validity.