

could
friends.

...also told the
...that he was instructed
to record Kirya's statement
by Senior Superintendent of
Police Julius Ogweng.

...to forensic
...laboratory at Naguru.
SSP Ogweng brought in a
gentleman who I later knew as
Sheikh Kirya and interviewed
him after which I wrote down
his statement. I gave it to him to
read through and he confirmed

...there was a trial
...adjournment of the hearing
as the judges considered the
matter. Upon resumption,
the court ruled: "This court
has carefully considered the
arguments from both sides and
it has come to the conclusion
that the person who recorded

...an alleged attempted murder
and attempted murder.
The suspects are on trial for
murder of Sheikh Mustafa
Bahiga and Sheikh Kirya.
Hearing of the case was
adjourned to today when three
more witnesses are expected to
testify.

Court squashes sh40b Namanve tree farmers' compensation

By Betty Amamukirori
and Dorothy Akampurira

The Court of Appeal has overturned a lower court award of over sh40b to Namanve forest tree farmers that they got after winning a case against the Government for the destruction of their trees by encroachers.

A three-judge panel ruled that the trial High Court judge erred when she issued such awards yet there was no clear evidence adduced before court to prove that Government was liable for the destruction of the farmers' tree plantations in Namanve forest reserve. The appeal was before Justice Steven Kavuma, Elizabeth Musoke and Paul Mugamba.

In 1952, the Government gazetted land in Namanve as a forest reserve which became known as Namanve Central Forest Reserve. It was created with a purpose of boosting private tree farming and forest conservation.

Later in 1991, the National Forest Authority (NFA) licensed a number of private tree farmers to plant and manage private tree plantations in

The justices ruled that the farmers never brought clear evidence to pin the Government on the alleged destruction

the reserve. The licensees paid the required fee to the authority and went ahead and planted trees. The license was for a period of 25 years.

In 2010, many of the trees were cut down and destroyed by alleged government agents. This made the 72 farmers to petition Nakawa High Court over the matter, accusing Government of using agents to destroy their trees.

They alleged that part of the forest

was later on degazetted to construct low-cost houses for people who were living in Kisenyi slums as well as Naguru and Nakawa estates.

They also alleged that some people had been given land titles on some part of the reserve.

In their suit, the farmers led by Duncan Turyatunga Rujojo, Fred Ahimbisibwe and Jovia Bataka stated that Wemo Consultant Planners and Surveyors were instructed to demarcate and survey the road network. In doing this, they cut down trees in the area.

On December 2, 2013, Justice Elizabeth Nahamya of the defunct Nakawa High Court, ordered Government to avail to affected farmers 620 hectares of land in another reserve within six months and assist them to establish their plantations in a pro rata (proportional) manner.

She awarded them compensation amounting to sh40.1b for the hectares, general damages of sh300m and exemplary damages of sh150m at an interest rate of 25% from the date of filing the suit until payment in full.

Herruling prompted the Government to appeal. The Government through the Attorney General (AG) stated that Nahamya erred when she awarded over sh40b to the farmers without analysing the evidence on record.

Court of Appeal ruling

In their judgment delivered yesterday, the justices agreed with the trial judge that the farmers were indeed licensed by the Government to plant trees, but disagreed on the awards she gave them. They said that though the trees were destroyed, the farmers never brought clear evidence to pin the Government on it.

"The fact that surveyors went into the forest reserve to demarcate and survey the roads network, does not make them automatically liable for the alleged destruction. No one saw them cut the trees nor was there cogent evidence placing them as the actual perpetrators," they stated.

"Having found as we have above, the appellant cannot be held vicariously liable for the respondents' loss; it follows that the award of sh40.1b as

compensation cannot be supported. This award should be directed against the appropriate perpetrators," they added.

The justices said that since the Government was not proved to be responsible for the destruction, the farmers are not liable for the claims of sh300m payment as general damages.

They argued that Nahamya erred when she awarded the sh150m as exemplary damages yet the Government was never responsible nor was it the master of the perpetrators of the destruction.

"Such an award is made when the defendant is responsible or answerable to some level as a master of the perpetrators who acted in a high handed manner. Analysing the rationale of awarding these damages, we find that the appellant does not fall in that category," they ruled.

Their ruling infuriated the farmers who had swarmed the courts to hear the verdict. They vowed to appeal to the Supreme Court, which is the final appellate court in the country.