



# **JURISDICTION OF MAGISTRATES GRADE 1 IN CIVIL AND CRIMINAL MATTERS**

**A paper presented at the Induction of Magistrates Grade One**

**BY: HW Mary Kisakye Kaitesi**

**REGISTRAR, PLANNING, RESEARCH AND DEVELOPMENT**

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# Session Outline

1. Definition
2. Meaning
3. Types of Jurisdiction
4. Jurisdiction of Magistrates Grade One in Criminal Matters
5. Jurisdiction of Magistrates Grade One in Civil Matters
6. Conclusion



## **Jurisdiction**

### *Definition*

*According to Merriam-Webster online Dictionary -*

<https://www.merriam-webster.com>

*the term jurisdiction means:*

“The limits or territory within which the power, right, or authority to interpret and apply the law and matters that are before the court are exercised.”



- ❖ *Jurisdiction*, means the authority, which a court has to decide matters that are before it or take cognizance of matters presented in a formal way for its decision.
- ❖ The limits of this authority are imposed by statute, charter or commission, under which the court is constituted and may be extended or restricted by the like means. (*Owners of Motor Vessel Lillian Vs. Caltex Oil Kenya Limited [1989] KLR 1*)
- ❖ Lack of Jurisdiction cannot be cured under Article 126 (2) (e) of the Constitution of Uganda.

*(Mulindwa George William vrs. Kisubika Joseph Civil Appeal No 12 Of 2014 Supreme Court of Uganda)*



- ❖ Jurisdiction is conferred on court or taken away by the express provisions of a statute. See: *David B. Kayondo v. Co – operative Bank (U) Ltd.*; S.C.C.A No10 of 1991.
- ❖ It is established law that jurisdiction cannot be conferred on a court or taken away by consent of the parties, and that any waiver on their part cannot make up for the lack of defect of jurisdiction. See: *Edith Nantumbwe Kizito & 3 Ors vrs. Miriam Kuteesa Court of Appeal Civil Application No. 294 of 2013*



## TYPES OF JURISDICTION

- ❖ Exclusive jurisdiction: A court has the power to adjudicate a case to the exclusion of all other courts.
- ❖ Concurrent jurisdiction: applies where two or more courts in the juridical hierarchy have simultaneous jurisdiction over a case/matter.



- ❖ Geographical Jurisdiction: The geographical area/limits that court can cover.

MCA. S. 2 The Minister may, after consultation with the Chief Justice, by statutory instrument divide Uganda into magisterial areas for the purposes of this Act. Magistrates Courts (Magisterial Areas) Instrument, S.I 11 of 2017. It repealed the Magistrates Courts (Magisterial Areas) Instrument, S.I No. 45 OF 2007.

- ❖ Considers where cause of action arose, where subject matter is situated, where defendant resides, where offence was committed.



- ❖ Pecuniary Jurisdiction: Relates to the limits of the monetary value of the subject matter a court is mandated to handle.
- ❖ Appellate Jurisdiction: Power/authority to handle appeals.





# **THE LAWS CONFERRING JURISDICTION ON**

## **MAGISTRATE GRADE 1 COURT**

### **General Rule;**

Courts in Uganda only have jurisdiction over offences which are committed in Uganda or have a connection to Uganda.

(Sec. 4 of the Penal Code Act)

### **Exceptions are in S.4(2) :**

- Intent to alarm, annoy or ridicule the president;
- concealment of treason;
- promoting war on chiefs.



# **The Constitution of the Republic of Uganda, 1995.**

Article 129 Clause 1(d) – on establishment of such subordinate courts as Parliament may by law establish.

## **The Magistrates Court Act Cap. 16.**

MCA. S. 5. Provides for constitution of courts

A magistrate's court shall be deemed to be duly constituted when presided over by any one magistrate lawfully empowered to adjudicate in the court.



## **Magistrate Grade 1 Jurisdiction in Civil Cases**

- ❖ *Section 207(1) (b) of the Magistrates (Amendment) Act, 2007, vests a Magistrate Grade 1 with jurisdiction where the pecuniary value of the subject matter does not exceed Ugx 20,000,000=*
- ❖ *Section 207 (2) where the cause or matter of a civil nature is governed only by civil customary law, the jurisdiction of a chief magistrate and a magistrate grade I shall be unlimited.*



- ❖ Section 1 (1) (a) of the Magistrates Courts Act (MCA) defines civil customary law as the rules of conduct which govern legal relationships as established by custom and usage and not forming part of the common law nor formally enacted by Parliament.

*Koboko District Local Governemnt versus Okujjo Swali Misc. App. No 001 of 2016*

Hon. Justice Mubiru observed that according to section 207 (1) (b) of the Magistrates Courts Act as amended by Act No. 7 of 2007, a magistrate grade 1 has unlimited jurisdiction with regard to disputes to a cause or matter of a civil nature governed only by civil customary law.



- ❖ *Section 207 (3) of MCA* Whenever for the purposes of jurisdiction or court fees it is necessary to estimate the value of the subject matter of a suit capable of a money valuation, the plaintiff shall in the complaint, subject to any rules of court, fix the amount at which he or she values the subject matter of the suit; but if the court thinks the relief sought is wrongly valued, the court shall fix the value and return the complaint for amendment.



- ❖ *Section 207 (4) of MCA*, In any suit where it is impossible to estimate the subject matter at a money value in which, by reason of any finding or order of the court, a declaration of ownership of any money or property is made, no decree shall be issued for an amount on the claim exceeding the pecuniary limits of the ordinary jurisdiction of the court passing the decree.



- ❖ Section 208. Magistrate's Courts have powers to try all civil suits unless barred.
- ❖ Every magistrate's court shall, subject to the Act, have jurisdiction to try all suits of a civil nature except suits of which its cognisance is either expressly or impliedly barred.



## **General Damages**

Magistrate cannot award damages beyond his or her monetary jurisdiction

See: *Joseph Kalingamire vs Godfrey Mulugusi HCCA 37/2003*

## **Costs**

Magistrates can award costs beyond their pecuniary jurisdiction

See; *National Medical Stores vs Penguins Ltd HCCA 29/2010*

## **Interest**

Interest awards are not limited by jurisdiction.





## **Criminal Jurisdiction of Magistrates Grade 1**

- ❖ S. 161. (b) MCA provides that a Magistrate Grade I may try any offence other than an offence in respect of which the maximum penalty is death or imprisonment for life.
- ❖ S. 162. Sentencing powers of magistrates;
  - (1)(b) a Magistrate grade I may pass a sentence of imprisonment for a period not exceeding ten years or a fine not exceeding four million eight hundred thousand shillings or both such imprisonment and fine.



❖ S.164. Committal for sentence

164(1) Where a court presided over by Magistrate Grade I convicts a person and obtains information about accused's character and antecedents which in court's opinion are such that greater punishment should be inflicted for the offence than the court has power to inflict, the court may, instead of dealing with him or her in any other manner, commit him or her in custody to a court presided over by a chief magistrate having jurisdiction for sentence.



- ❖ S. 166. Magistrate has power to remand for lack of jurisdiction

Where a charge has been brought against a person in a court having no jurisdiction to try the offence with which he or she is charged, the magistrate shall remand the accused person in custody to appear before a court having jurisdiction to try that offence.



❖ S. 75- Powers to grant bail in criminal matters

Take Note of: The Constitution ( Bail Guidelines for Courts of Judicature) (Practice) Directions, 2022. Launched by the Chief Justice in July, 2022.



## **The Civil Procedure Act Cap. 71.**

### Sec. 4. Pecuniary jurisdiction

Except insofar as is otherwise expressly provided, nothing in this Act shall operate to give any court jurisdiction over suits the amount or value of the subject matter of which exceeds the pecuniary limits, if any, of its ordinary jurisdiction.



Sec. 11. Jurisdiction of civil courts

Sec. 12. Suits to be instituted where subject matter situate

Sec. 17. Power to transfer suits which may be instituted in more than one court

Sec. 27(3) The court or judge may give interest on costs at any rate not exceeding 6 percent per annum, and the interest shall be added to the costs and shall be recoverable as such.



❖ Sec. 33 powers of court in executing transferred decree passed by another court as if the same was passed by that court.

❖ **Sec. 82. of CPA ; Review**

Any person aggrieved—

(a) by a decree or order from which an appeal is allowed by this Act, but from which no appeal has been preferred; or (b) by a decree or order from which no appeal is allowed by this Act, may apply for a review of judgment to the court which passed the decree or made the order, and the court may make such order on the decree or order as it thinks fit.



❖ Sec. 99. Amendment of judgments, decrees or orders;  
Clerical or mathematical mistakes in judgments, decrees or orders, or errors arising in them from any accidental slip or omission may at any time be corrected by the court either on its own motion or on the application of any of the parties.





## **The Children Act Cap. 59.**

- ❖ Sec. 93. Criminal jurisdiction of family and children court.

A family and children court shall have jurisdiction to hear and determine all criminal charges against a child except—

1. any offence punishable by death;
2. any offence for which a child is jointly charged with a person over eighteen years of age.

- ❖ Sec. 44(1)(a)- No jurisdiction to handle adoption matters

Sec. 73 Magistrate Grade 1 can entertain Custody matters



## **The Divorce Act Cap. 249.**

- ❖ Section 3-Where all parties to a proceeding under the Act are Africans or where a petition for damages only is lodged in accordance with Section 21 of the Act, jurisdiction may be exercised by a court over which presides a magistrate grade I or a chief magistrate.
- ❖ Always pay attention to orders being sought in divorce petitions to ascertain whether you have jurisdiction.



# **The Administration of Estates (Small Estates)**

## **(Special Provisions) Act Cap. 156**

Section 2 (1) (b) - in grant of probate or Letters of administration where the total value of the Estate does not exceed 20 million shillings.



## **Anti-corruption Act, 2009.**

Sec. 51 (b) Jurisdiction to try an offence under the Anti-corruption Act can be exercised by—

(a) the High Court;

(b) a magistrate's court presided over by a Chief Magistrate; or

(c) a magistrate's court presided over by a Magistrate Grade 1.



## **The Judicature (Small Claims Procedure)**

### **Rules, 2011**

Rule 5: A Chief Magistrate and Magistrate Grade 1 shall have jurisdiction to hear a case whose subject matter does not exceed Ten Million Uganda Shillings.



## **CAUTION**

- ❖ Magistrates should note that there is also jurisdiction vested onto them by other statutes;
  - Uganda Wild Life Act
  - The Fish Act
  - National Environment Act 2019
  - The National Forestry and Tree Planting Act
  - Etc
  
- ❖ Other statutes may prescribe the sentences within jurisdictions of Magistrates but specifically exclude Magistrates from trying the cases.



## Conclusion

- ❖ Jurisdiction is prescribed by law, it cannot be implied
- ❖ Jurisdiction is your shield and sword; Handling a matter without jurisdiction can lead to disciplinary proceedings
- ❖ Read and consult widely at all times, learning never ends.
- ❖ Note that powers to transfer a case is only vested in High Court. Therefore where a magistrate finds he/she has no jurisdiction in a matter before his/her court, the appropriate remedy is to dismiss the case for want of jurisdiction.



# Conclusion

THANK YOU FOR LISTENING TO ME

