

**.THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA**

CIVIL SUIT NO. 218 OF 2010

KATUSIIME JUSTUS-----PLAINTIFF

VERSUS

- 1. THE NEW VISION PUBLISHING CORPORATION**
- 2. THE EDITOR IN CHIEF BUKEDDE NEWS PAPER**
- 3. ROBERT MUTEBI**
- 4. WAVA BROADCASTING SERVICES LTD-----DEFENDANTS**

BEFORE: LADY JUSTICE LYDIA MUGAMBE

JUDGMENT

a) Introduction

1. This is a judgment in civil suit No. 218 of 2010. Justus Katusiime, the Plaintiff, is a male adult Ugandan citizen. The first Defendant is a corporation established in Uganda carrying on the business of printing and publishing news. The second Defendant is the Editor in Chief of Bukedde Newspaper, a sister newspaper of the first Defendant carrying on the same business in Luganda. The third Defendant is a journalist who was employed by Bukedde Newspaper at the material time. The fourth Defendant is a private television company in Uganda with provision of televised news as part of its business.

2. At the time of filing the plaint in September 2010, the plaintiff was represented by M/s. KMT Advocates and Kinobe, Mutyaba & Turinawe Advocates. At the hearing in 2014, the Plaintiff represented himself; this was after communication from Uganda Law Society through Ligomarc Advocates, on 28 March 2014, that it was not representing him and that he should stop holding out as their client and using their headed paper for court communications. The first, second and third Defendants are represented by Mr. Roscoe Ssozi of Ssozi & Co. Advocates and the fourth Defendant is represented by Ms. Alice Mwebaze of Ligomarc Advocates.
3. The Plaintiff's claim against the Defendants is jointly and severally for general damages for libel and defamation, punitive damages, a permanent injunction restraining the Defendants, their agents or servants or themselves from further writing, printing, broadcasting and publishing any libelous matter against the Plaintiff and costs of the suit.
4. The libel and/or defamation allegations are based on an article headed "Amagye gazinze abadde akekemya abakazi" on the front page and "Atwonoonera abaana" at page 5 of Bukedde newspaper of 10 October 2005 and a video footage recording of the Plaintiff's eviction from the premises in issue and aired during the prime news at 9:00pm on 8 October 2007 and the following morning when the previous night's news was re-aired by the 4th Defendant. The plaintiff adduced the 4th Defendant video recording from the news and copies of the Bukedde newspaper pages in evidence as Exhibits P1 and P2 respectively.
5. The Plaintiff contends that the publications in issue in Bukedde and on WBS television wrongly depicted him as a murderer, robber, rapist/defiler, sexual predator, terrorist and immoral. As a result of the said publication and broadcast his reputation and character has been seriously and severely injured and is now regarded with contempt, mistrust, ridicule, fear, dislike and hatred, yet he is a good citizen. That he has been brought to public scandal, experienced mental pain, anxiety, emotional stress, irritation and annoyance at the false accusations in the story complained of and his personality has suffered great damage for which he is entitled to general and aggravated damages.
6. The Defendants maintain that the plaint is bad in law and does not disclose a cause of action against them. Further that there is a misjoinder of the first Defendant in this suit as it is a non-existent entity and cannot be legally sued as such and that the third Defendant cannot be an employee of a non-existent entity.
7. The first, second and third Defendants deny the Plaintiff's claims and argue that the Bukedde publications were not libelous or defamatory either directly or by inference and that the publications complained of consisted of allegations of fact which were substantially true and justified. Further that the words complained of did not bear an

innuendo or otherwise and were incapable of bearing meanings defamatory of the plaintiff. The fourth Defendant avers that the recording of the Plaintiff being arrested by police was broadcast on prime news bulletin without malice and was a fair comment in a matter of public interest. The Defendants therefore pray that the suit be dismissed with costs.

8. The issues raised at scheduling can be deduced into the following:
 - i) Whether the publications and broadcast were defamatory of the Plaintiff.
 - ii) Whether the publication and broadcast complained of were true or fair comments on a matter of public interest.
 - iii) Whether the Plaintiff is entitled to any remedies.

b. The Law

9. In **Francis Lukooya Mukoome & Anor vs. Editor in Chief Bukedde Newspaper & 2 Others, Civil Suit No.351 of 2006**, Justice Yorokamu Bamwine defined defamation to be an injury to one's reputation and that reputation is what other people think about a man and not what a man thinks about himself. He further held that in order to determine whether or not the statement is defamatory, the test is whether the words complained of would tend to lower the Plaintiff in the estimation of the right-thinking members of society and for a statement to be defamatory it must not be true. (See also Gitley on Libel and Slander, 8th Edition Para 31).
10. In **David Etuket & Anor v. The New Vision Printing and Publishing Corporation HCCS No. 86 of 1996**, it was held that in order to prove the reduction of reputation or esteem, the Plaintiff must adduce evidence from either his or her colleagues or from any member of the society who knew the Plaintiff before the publication of the statement complained of and who read the article. The Court can then judge how the right-thinking members of society regarded the Plaintiff following the publication of the article.
11. If a defamatory statement is made in writing or some permanent form, the tort of libel is committed. See **Ratcliffe v. Evans (1892) 2QB 524 at 528**. Libel is defined as defamation by written or printed words, pictures, or in any form other than by spoken words or gestures. Libel is therefore a published false statement that is damaging to a person's reputation.
12. In **Halsbury's Laws of England 4th Edition**, it is explained that in order to constitute libel, the statement must be published and it must be concerning the plaintiff. The plaintiff can rely only on the defamatory matter contained if he or she is referred to,

whether expressly or by implication in the statement in respect of which the action is brought. Where the plaintiff is referred to by name or otherwise clearly identified, the words are actionable even if they were intended to refer to some other person and both the plaintiff and the other person may have a cause of action.

13. Secondly, the plaintiff must prove that the publication was defamatory. Again, there is no complete or comprehensive definition of what constitutes a defamatory statement. However, generally speaking, a statement is defamatory if it tends to lower a plaintiff in the estimation of right thinking members of society generally or if it exposes such person to public hatred, contempt or ridicule or if it causes him to be shunned or avoided as stated by Justice Allen in the case of **Geofrey Ssejjoba v. Rev. Patrick Rwabigonji** HCCS No. 1 of 1976.
14. In **A.K Oils & Fats v. Bidco (U)** HCCS No. 715 of 2005, Justice Yorokamu Bamwine held that in determining whether a word is defamatory the Court must first consider what meaning the word conveys to an ordinary man. The fact that the person to whom the words were published did not believe them to be true is irrelevant and does not affect the right of action. Therefore the words have to be accorded their ordinary and natural meaning. The plaintiff therefore has to prove that indeed the words are defamatory, and once the ordinary meaning has been determined, the court must decide whether the words complained of are defamatory.
15. According to **Giltley on Libel and Slander, 8th Edition** at paras 114 and 115, where the words are defamatory in their ordinary and natural meaning, the plaintiff needs to prove nothing more than their publication. This position was confirmed by Justice Gideon Tinyinondi in **Ntabgoba v. Editor New Vision (2001 – 2005)** 2 HCB 209.
16. There are defences in defamation. Justification is a complete defence to an action for the defendant to plead that the statement is true substantially. The Defendant can only plead justification where there is clear and sufficient evidence that the allegation is true.
17. Truth may be pleaded as a defence to the whole defamatory statement. In **Chaina Movat and Voice of Kigezi v. Kyarimpa Enid**, HCCA No. 42 of 2008, Justice Kwesiga held *inter alia*, that the defence of justification means that the Defendant is contending that the words complained of were true. The burden is on the Defendant to prove that the facts in these words were true.
18. Fair comment is another defence in defamation. The word “fair” embraces the meaning of honesty, relevance and free from malice and improper motive. The defence of fair comment was discussed in **Figueredo & 4 others v. The Editor of Sunday Nation & 4 Others (1968)** EA 501 to enshrine matters dealing with affairs of the state, affairs of

local institutions, books, pictures and works of art, theatres, concerts etc. However fair comment should have the following qualifications:

i) The matter commented on must be of public interest. Lord Denning (MR) in **London Artists v. Litler (1969) 2 ALLER** stated:

“Whenever a matter is such as to affect people at large, so that they may be legitimately interested in or concerned at, what is going on or what may happen to them or others, then it is a matter of public interest on which everyone is entitled to make a fair comment. This was quoted with approval in the case of **Rev. Besigye v. Amama Mbabazi HCCS No. 104 of 2002;**

ii) The statement in question must be an expression of opinion and assertion of facts and;

iii) The comment must be fair and not malicious. It must be of facts that are truly stated. Fairness here is tested in two ways i.e. the subjective test and the objective test at the same time. There must be total absence of malice.

c. The Evidence and Resolution of issues

(i)The Evidence

19. The Plaintiff brought evidence of five witnesses with himself as PW1. He testified that he was Ms. Winfred Mbonye’s tenant residing in Nakulabye Kiwuunya zone at the time of his assault and eviction on 7 October 2007. He was evicted for reasons unknown to him by the said landlady, LC 1 chairman who was also the LC2 chairman, the police and a group of people who included the third Defendant and another photo journalist from WBS. He contends that the publication and broadcast calling him a murderer, rapist, terrorist, and one who sexually harasses women was false and defamatory against him as he was depicted as a false and shabby man to the public. It brought him into public scandal and damaged his profile.
20. He also testified that at the time of the said eviction, he was a student pursuing a Diploma in Law at Law Development Centre and was the chairperson / executive head of the National Movement Advocacy Forum which was not yet registered. Exhibit P4 is a copy of the constitution of the National Movement Advocacy Forum.

21. Further that he was also a member of the 'Think Tank' of the International Conference on Peace, Security, Democracy and Development in the Great Lakes region. The publications and broadcast therefore injured his good name and reputation as a student of Law Development Centre and other social status. Exhibit P3 is the statutory declaration of the Plaintiff's social status and it has annexures in proof thereof. The Plaintiff explained that this incident was the worst scandal of his life and it caused him shock and turmoil. No one from any of the Defendants came out to clarify or apologize. It was a denunciation of his impeccable reputation. In cross-examination PW1 clarified that he has no Diploma in Law but insisted he was a student at LDC at the time of the incident. Although PW1 insisted that he was immobilized from the army because of the incidents in issue, he failed and/or refused to answer the question why he was immobilized/ what reasons the army gave him for the immobilization.
22. I am convinced he was being elusive and was not truthful in saying that he was immobilized because of the incident in issue. In fact, during cross-examination by Mr. Ssozi, the Plaintiff contradicted himself saying that he was immobilized over ten years ago in 2004 (Note: the incidents in issue were in October 2007). He then explained that he was immobilized because of the sickness he had then.
23. PW2 was Asimwe Stephen, PW3 was Paul Bangirana, PW4 was Moses Ashaba and PW5 was Ataho George Mwesigye. All testified that they met and studied for the Diploma in law with the Plaintiff at LDC between 2004 and 2005. None of them knew the Plaintiff before 2004 or what he did after 2005. None knew where the Plaintiff was staying or his spouse. PW2 testified that the Plaintiff told him that the residents feared him to be a spy of the government or an intelligence officer. PW3 and PW5 testified that Kulayigye Felix confirmed that the Plaintiff was a soldier and that utterances of robbery, sexual harassment etc were said by the LC Chairman and the fourth Defendant's reporter Timothy Sebasi, who reported what the chairman was saying. PW4 said that he left the Plaintiff's forum in 2009 because of the article but that despite the publications and broadcast, the Plaintiff was not sucked by members of the forum. All these witnesses testified that they could not believe what was being said about the Plaintiff. They clarified to Court that they would not know if the Plaintiff sexually harassed members of his community, or was involved in robbery or the other crimes alleged.
24. I observed the Plaintiff assisting PW2, PW3 and PW4 to answer questions in cross-examination through body language, whispers and giving answers to them. PW4 was unbelievable to me in some parts of his testimony and his voice went down in some places as expressed on the record. He particularly testified that

although the publications in issue were in 2007, he only left the Plaintiff's forum in around mid 2009.

25. The Defendants appeared to mount a joint defence and adduced evidence of three witnesses. DW1, Zimbe Musa, is the LC 2 Chairperson of Baliluno Zone 5 was brought by Ms. Mwebaze for the fourth Defendant, DW2, Timothy Sebas, is a journalist and was the reporter from the 4th Defendant who responded to the call to witness the eviction of the Plaintiff. He was present during the eviction. DW3 is Robert Mutebi, the third Respondent and was a reporter of Bukedde newspaper at the material time who witnessed the eviction.
26. DW1 testified that he knew the Plaintiff very well as a former resident of his area. Around October 2007, he was approached by the Plaintiff's landlady and LC-1 chairman to evict the Plaintiff for non - payment of rent and other bad behavior. The other bad behavior of the plaintiff included; buying prostitutes day and night, after using them, he would strangle them; threw other tenants' clothes on the ground in the mud when he found them hang out on the line; urinate in a basin in his room and empty it in front of other neighbors 'rooms; he would step on and break neighbors jerrycans near his door; he called himself a soldier, lawyer and a relative of Amama Mbabazi and beat up his neighbors; he would use condoms and throw them in the road near his room; people were tired of his ways.
27. DW1 then wrote to the Plaintiff to vacate the house. DW1 personally went to the Plaintiff rental room (muzigo), met him and told him to leave. The Plaintiff was so arrogant and did not listen. Later DW1 met the Executive members (I presume of the Local Council of the area) and the Executive forcefully evicted the Plaintiff in the incident in issue. The Plaintiff was pompous and regarded himself like a very important person. They knocked at his door, he refused to open and they cut the lock and forced his room open. Then they took the Plaintiff out with all his property.
28. DW1 explained that the people in the community were very excited to see the Plaintiff being evicted. They all came out to witness and chanted along in excitement and assisted in whatever manner because the Plaintiff had become a problem in the area. All residents assisted in the eviction because the Plaintiff had become a nuisance/problem to the community.
29. As the Plaintiff and his property were being retrieved, the Plaintiff was found with army uniforms under his beddings. They asked for documentation

regarding his possession of such army uniforms or whether he was a soldier entitled to have them and he had none.

30. Then the LC-2 Executive as well as the Reserve force members present took the Plaintiff to police. He resisted and the Reserve force officer, a one Kaweesa, present slapped him and he obliged. DW1 also said that they called journalists to witness the eviction of the Plaintiff- a man who had been a problem to the community where he had lived for about two years.
31. In cross-examination by Mr. Ssozi, DW1 explained that the reason why there were claims the Plaintiff was a murderer was because he used to use prostitutes and then strangle them as if he was killing them or attempting to kill them. He also beat his neighbors like he wanted to kill them. Reports of the above incidents of the Plaintiff were brought to his attention on many occasions and the LC1 Chairman had failed to rein him in because of the Plaintiff's ways. In cross-examination by the Plaintiff, DW1 explained that he evicted the Plaintiff under the Local Government Act and named other members of his Executive. He also clarified that Kaweesa only came in after the Plaintiff was found with army uniforms.
32. In cross-examination by the Plaintiff, DW1 confirmed the presence of journalists from, among others, Bukedde newspaper and the fourth Defendant during the eviction. He also explained that he called the Plaintiff a dangerous person because he was dangerous given what he did in the area. DW1 also explained that the Plaintiff is not a good person to have in the community. DW1 also explained that the prostitutes the Plaintiff used would sometimes scream at night and would report to the LC authorities that the Plaintiff used them and did not pay them. DW1 said he received about 4 verbal complaints from prostitutes and there were more at the LC1. DW1 would refer the prostitutes to police because the Plaintiff had become a problem. DW1 confirmed speaking to the journalists on site during the eviction as shown in the video footage of the fourth Defendant.
33. DW2 testified that normally they get to gather news through phone calls from the public and sometimes invitations are sent to the station. In regard to the Plaintiff, on the date of his eviction in issue, a call came in to the newsroom hotline saying someone is being evicted in Kiwuunya zone in Nakulabye. The person being evicted was a suspected rapist and masquerades to be a UPDF soldier. DW2 and his team proceeded to the scene of the eviction. At the scene, they found the Plaintiff being evicted and the same reasons on phone were given at the scene for his eviction. DW2 explained that any story to do with

indiscipline like rape and impersonation like in the instance of the Plaintiff at the material time, was newsworthy, worth covering and they covered it in the interest of the public.

34. DW2 clarified that he did not know the Plaintiff before his eviction and the basis of his opinion in the telecast was what he saw on the ground, what local authorities and residents told him and exhibits like military uniforms retrieved during the eviction.
35. DW2 explained that when asked by the UPDF officer present, the Plaintiff could not give his UPDF number or pass and this recording is part of his TV telecast. Others in the telecast include the LC chairperson and some residents. The video telecast (Exhibit P1) was also tendered as a Defence exhibit by the fourth Defendant.
36. During cross-examination by the Plaintiff, DW2 explained that the Plaintiff was implicated in rape and impersonation by the residents to the authorities. He insisted that he reported the Plaintiff's story truthfully and honestly to the public. He verified that the story was carried during the prime news at 9:00pm on the same day and was re-run the next day in the morning as is the case with news of the previous evening. He confirmed to be the Timothy Sebasu in the TV telecast. He clarified that according to what the members of the community were saying, the Plaintiff was a threat to their community. He also explained that he interviewed some authorities and members of the community who were willing to appear in the telecast.
37. DW3 was a reporter from Bukedde at the material time who wrote the Bukedde publications in issue. He was called to witness the eviction of the Plaintiff in issue in October 2007 just like DW2. He testified that he saw the Plaintiff for the first time some weeks before his eviction at the same place in Nakulabye. At this first incident, the Plaintiff had locked a woman inside his room. Many calls came in saying there was a woman screaming in a house. In response DW3 got onto a bodaboda to go to the scene.
38. On arrival people had gathered at the scene, which was a place with rentals. The Plaintiff's room was locked and a woman was screaming at the top of her voice from inside. Almost the whole village had gathered and in her screaming and crying, the woman was demanding for her money from the Plaintiff in Luganda. Translated, the woman was shouting; "pay me my money" and "This man slept on me all night and he does not want to pay me."

39. Police was pleading with the Plaintiff to open and DW3 interviewed some of the residents who explained that he had become a public nuisance, beats and sexually harasses women. Some residents said he intimidates and threatens some residents because he is a soldier. Some of his neighbors with children feared for their children in light of his behavior both at night and in the day. Later police forced the Plaintiff to let the woman go and she left almost half naked and still complaining about the Plaintiff's non-payment.
40. DW3 interviewed the woman later and found out that she was a prostitute called Nakimera operating around Elliot bar in Nakulabye. The Plaintiff had picked her up from this bar area for the night. They had agreed that he pays her about 20,000shs for her services for two to three hours.
41. When the door was opened, DW3 saw the Plaintiff now in Court and took pictures of him as he peeped. These are some of the pictures in the Bukedde newspaper of October 2007 that the Plaintiff exhibited in Court.
42. DW3 said he wanted to get the Plaintiff's side of the story and when he tried the Plaintiff told him to write what he had seen. He said he was at the scene at 7:00am and police arrived at around 10am and the woman was rescued at about midday.
43. On that very day, the Plaintiff's landlord who lived next to the rentals complained a lot about his behavior. She said she had wanted the Plaintiff to leave her rentals a long time before but the Plaintiff was bigheaded. Whenever she asked him to leave, the Plaintiff threatened her saying he is a soldier. She had taken the matter to the LCs. Even other residents had complained about the Plaintiff to the LCs. On this occasion, DW3 left his business card with residents in the area.
44. A few days or weeks later, DW1 called DW3 to come and witness the eviction of the Plaintiff from the area, this time the community and LC authorities had sat and agreed to evict the Plaintiff from the rentals for his bad behavior. DW3 went to the scene, it was the same scenario as before people had gathered, the Plaintiff's property was outside and he had been evicted by LCs, the police and the community. There was a scuffle first because he did not want to get out of his room but later he conceded.
45. DW3 spoke to DW1, the landlady and other concerned neighbors as well as the OC of Nakulabye police station. DW3 took photos of people willing to appear in the papers. Everyone was complaining about the Plaintiff's behavior. No one empathized with the Plaintiff.

46. This time DW3 spoke to the Plaintiff and he said he had not been given justice and that some of the complaints were not true. DW3 corroborated DW1 and DW2 on finding army uniforms in the Plaintiffs' room and an old army ID with his picture. The Plaintiff told DW3 that he is a student at LDC but still working with security agencies. Because of the army uniforms found, CMI was called in and the Plaintiff was taken to police.
47. DW3 clarified that he had no grudge against the Plaintiff because he did not know him before these incidents and that he was not used by anyone to write the story he wrote in Bukedde. He acknowledged being the author of the Bukedde publications in issue including the pictures.
48. He clarified that nothing in the story was his making and the story is entirely based on the events at the Plaintiff's eviction. He also clarified that he ran two stories in Bukedde but the story the Plaintiff pulled up for this case was the second. Yet the first story regarding the prostitute Nakimera led to this second story. He clarified that he did not incite people at the eviction. He also said that at the time of the eviction, police did not plead with the Plaintiff to open his door. He also clarified that he did not write an untruthful story and that this story was not a libel.

(ii) Analysis

49. I have carefully and cautiously looked at all the pleading including the final submissions of all the parties and the evidence. It is not disputed that in October 2007, the Plaintiff was evicted from the rental room of Mrs. Mbonye in Kiwuunya zone Nakulabye where he was a tenant. It is also not disputed in fact Exhibit P1 shows that the LC authorities, the army, police and general community of residents was involved in the said eviction. Neither is it disputed that journalists were present for the eviction and DW2 retrieved video footage in exhibit P1, which was aired on prime news time on 7 or 8 October 2007 on WBS television and re-aired the next morning. Neither is it disputed that DW3 who is also the 3rd Defendant was present at the scene of the eviction and after interviewing persons present wrote the stories in issue, including pictures in Bukedde newspaper of 10 October 2007.
50. I take it that for the first Defendant, the Plaintiff meant The New Vision Printing and Publishing Corporation Ltd. However the stories were aired and published in the Bukedde newspaper. Moreover the author of the Bukedde stories and pictures is brought as the third Defendant and the second Defendant is the editor in chief of Bukedde newspaper. In these circumstances, although it may be

public knowledge that Bukedde is a sister company to the New Vision Printing and Publishing Corporation Ltd, I find no basis to list the first Defendant as a Defendant in this case. Nothing was printed by the said first Defendant, and, in circumstances where Bukedde newspaper can be sued individually and its chief editor and author are Defendants, the inclusion of the New Vision Printing and Publishing Corporation Ltd, as a Defendant is baseless. I therefore find that the Plaintiff has no cause of action against the first Defendant.

51. Looking at the articles in Bukedde including the pictures of the Plaintiff on the first and fifth pages, and taking the plain meaning of the words in the articles therein as well as the video footage aired on prime news by the fourth Defendant, clearly the inferences that the Plaintiff is a possible rapist, murderer, impersonator of a soldier, one who does not pay rent and a nuisance to the community where he lived and other descriptions are defamatory of the Plaintiff within the meaning enunciated above under the law.
52. The next question therefore is whether they were made with malice, or are substantially factually true therefore justified and fair comments in the public interest. In analyzing this, I cannot ignore the context or circumstances in which they were said in this case.
53. I do not believe the Plaintiff testimony that he did not know why he was being evicted. Clearly his eviction had something to do with non-payment of rent, and the other bad behaviors that the local authorities, the residents, the police and army mention in the video evidence and as reported in the Bukedde articles by the third Defendant. In particular I am convinced by DW3's testimony regarding his first sighting of the Plaintiff when, Nakimera - a prostitute, was demanding for payment of her services from the Plaintiff who had refused to pay and the community and police got involved. This together with the feedback from the neighbors and residents of the community, to DW2 and DW3 as testified as well as DW1 who received reports on the same as the LC2 authority, in my view justifiably labeled the Plaintiff as described in the publications and video.
54. According to DW1, the claim of a murderer flowed from the Plaintiff strangling acts of the prostitutes he slept with in his room. These acts in my view also justified the label of a murderer in the eyes of the residents and community of Kiwuunya LC-1 in Nakulabye. The evidence by DW1, DW2 and DW3 of the Plaintiff holding out as a soldier whereas no longer at the time around his eviction, as well as finding him with army uniforms and his inability to identify himself as a soldier when quizzed justify the label of impersonation.

55. I have no reason to disbelieve the three Defence witnesses in their testimony. I am convinced they did not personally know the Plaintiff or in any way hold a grudge against the Plaintiff so as to be malicious in their testimony against him. I have no basis to deduce that DW2 and DW3 were malicious in their published stories regarding the Plaintiff's eviction in issue.
56. All in all I am convinced that the Plaintiff's alleged bad behavior earlier described by Defence witnesses and depicted in Exhibit P-1 and non-payment of rent were the reasons for his animated eviction in issue. I am also convinced that none of PW2, PW3, PW4 or PW5 who met the Plaintiff at LDC between 2004 and 2005 and did not know where he lived or what he was doing after they parted, could not have known about his behavior as a resident in Nakulabye in October 2007, the material time.
57. Moreover, as explained earlier, in some parts, these witnesses were elusive and untruthful in parts of their testimony. Mindful that he was self-represented, I wish also to point out that even the Plaintiff was evasive in some parts of his testimony. The sum effect is that I found the Plaintiff and his witnesses untruthful in parts of their testimony and to some extent unreliable.
58. Be that as it may and without prejudice, it is clearly demonstrated to me that the Defendants were picked by the Plaintiff only because they were associated with bringing the Plaintiff's eviction to the public domain.
59. Taking account of all the evidence, I am convinced that the publications in Bukedde and by WBS were substantially true factual stories regarding the eviction of the Plaintiff. The allegations surrounding the eviction as revealed by the Defence witnesses, and video evidence in Exhibit P-1, that even the Plaintiff relies on, were issues of public interest that needed to be aired and/or reported in the public domain. They were matters of public interest affecting people at large and people were legitimately interested in or concerned with them and what actions were happening to them by the Plaintiff or may happen to other people, including children. The public needed to know about the Plaintiff's bad behaviors. Their publication was therefore justified. All that the publications did was bring the story and circumstances surrounding the eviction of the Plaintiff to the attention of the public. While DW2 and DW3 testified on the interest or excitement of the public in the eviction, Exhibit P-1 outstandingly corroborates this evidence of excitement and interest in the Plaintiff's eviction and lack of empathy.

60. Any opinions and assertions by the reporters are, clearly, both subjectively and objectively fair aimed at taking the message in the story home to the public. I have no basis to infer malice or falsehood in the Bukedde publications or the fourth Defendant video footage. I am satisfied the publications were truthful and therefore did not injure the reputation and character of the Plaintiff in any way. They were fair comments because they were honest, relevant, and free from malice and improper motive therefore meeting the standard in **London Artists v. Litler the case of Figueredo and 4 others (supra)**.

61. They were reminiscent of what right thinking members of the public in the Nakulabye community in Kiwuunya zone where the Plaintiff lived perceived him to be and described him as such to the authors of the publications. They were substantially true, fair comments on a matter of public interest. So in the circumstances of this case, issues i) and ii) cannot be resolved in favor of the Plaintiff and the Plaintiff cannot be entitled to any relief.

Costs for the second, third and fourth Defendants are awarded, to be paid by the plaintiff.

I so order.



LYDIA MUGAMBE

JUDGE

29/06/2015.