

THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

MISCELLANEOUS APPLICATION NO. 293 OF 2014

[Arising from Miscellaneous Application No. 292 of 2014 and Civil Appeal No. 206 of 2013]

1. Phillip Isiah
2. Semeon Oyuda
3. Kerwoto Oyuda
4. Onyutha Loka
5. Alimundu Erediyo Odubi
6. Justice Peter Onega
7. Olrker S/O Saverio Ali

Applicants/Appellants

VERSUS

1. Mark Nziri
2. Vicent A. Owiny
3. Donansio A. Otwiya
4. Lorenzo Kock Owacho

: Respondents

Coram: Hon. Mr. Justice Remmy Kasule, JA, Sitting as a single Justice

RULING

This application is for an Interim Injunction Order. It is made under **Rules 21(2), 6(2)(b), and 43** of the Rules of this Court.

There is a dispute as to who is the lawful cultural leader of the Ragem Kingdom-Wadelai, West

Nile, Uganda.

The High Court at Arua in **Civil Suit No. 0011 of 2010** on 28.03.2013 decided that the 7th applicant, OLARKER S/O SAVERIO ALI, had been wrongly elected and appointed the traditional cultural leader/king of the Jonam Ragem Kingdom-Wadelai. Thus the respondents, as plaintiffs to the said suit, won the case against the applicants, who were defendants to the suit.

The applicants, dissatisfied with the High Court Judgement in **High Court at Arua Civil Suit No. 0011 of 2010** have lodged to this Court **Civil Appeal No. 206 of 2013**. The appeal has been conferenced and only awaits a hearing date.

In the meantime the respondents, being in possession of the decree of the High Court, Arua, are proceeding to elect and appoint one Tom Onegi as the traditional and cultural leader and king of the Jonam Ragem Chiefdom, Wadelai.

Thus the applicants have had to move this Court through **Miscellaneous Application No. 292 of 2014** (for a substantive **temporary injunction**) and **Miscellaneous Application No. 293 of 2014** for an Interim Injunction to restrain the respondents from installing a new king and the said new king from exercising the powers of the institution pending disposal of the substantive application **No. 292 of 2014** and/or the appeal **No. 206 of 2013**.

Affidavits in support and in opposition to the application have been filed in the application.

Learned Counsel Dominic Twinamasiko appeared for the applicants while John Toa Bahemuka was for the respondents.

Rule 2 (2) of the Rules of this Court enjoins this Court in the exercise of its inherent power to make orders as will ensure achieving the ends of justice and/or to prevent abuse of the process of the Court.

For an application of an Interim Injunctive Order, the applicant has to show that a substantive application is pending, that there is a serious threat of execution or upsetting the status quo before the hearing of the pending substantive application. Court, at this stage is not required to consider matters necessary in deciding whether or not to grant the substantive application: See **Supreme Court Civil Application No. 19 of 2008: Hwang Sung Industries Ltd vs Tajdin Hussein & 2 Others (Okello JSC)**.

In this case, in my considered view, I find that while the applicants have made out a case for an Interim Order to be issued, it is also necessary that Court preserves a situation of neutrality as regards the chair of the traditional cultural leader and King of the Jonam Ragem Chiefdom, Wadelai.

Court therefore orders that both **His Highness Olarker Mercelion S/O Saverio** and **Tom Onegi**, stated to be the newly installed traditional cultural leader and King of the Jonam Ragem Chiefdom, Wadelai, cease and are hereby each one and/or jointly restrained from exercising any powers and carrying oneself as the traditional , cultural leader and King of the Jonam Ragem Wadelai Kingdom, until the final disposal of **Miscellaneous Application No. 292 of 2014** and/or **Civil Appeal No. 206 of 2013** whichever is determined earlier.

No other person is to act as cultural/traditional leader of the Jonam Ragem Wadelai Chiefdom during the pendency of this Order.

It is hereby directed that both **Miscellaneous Application No. 292 of 2014** and **Civil Appeal No. 206 of 2013** be cause listed for disposal during the month of November, 2014.

This order is to last up to 30th November, 2014, when it shall lapse, unless if the same is further extended by this Court.

Dated at Kampala this **31st day of October, 2014.**

Hon. Remmy Kasule

JUSTICE OF APPEAL