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THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

MISC. APPLICATION NO.622 OF 2022

(Arising from Misc. Application No. 371 of 2021)

(Arising out of Misc. Application No.370 of 2021)

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(Arising from Civil Appeal No. 387 of 2022)

THE PEPPER PUBLICATIONS LTD:.....APPLICANT

VERSUS

STANBIC BANK (U) LTD:.....RESPONDENT

CORAM: HON. MR. JUSTICE CHEBORION BARISHAKI, JA

15

(SINGLE JUSTICE)

This application was brought under the provisions of rule 2(2), 6(2) (b) of the Rules of this Court.

It seeks for orders that: -

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- 1. An interim order doth issue prohibiting the respondent from attaching, selling or in any way disposing off the loan securities for the facility purportedly advanced to the applicant vide the agreement dated 8th October, 2018 or in respect of the medium term loan and lease facility agreements dated 21st July, 2016 pending the determination of the main application pending before this Honorable Court.*

5 2. *An interim order doth issue prohibiting the respondent from charging further interest on the monies claimed from respective transactions pending the determination of the Civil Appeal No. 387 of 2022 pending before this honourable Court.*

3. *Costs of this application be provided for.*

10 The background to the application as understood from the pleadings is that the applicant sued the respondent in High Court Commercial Division vide Civil Suit No.569 of 2021 for a declaration that the respondent made illegal charges and deductions from the applicant's account, recovery/ refund of UGX 174,076,270/= (One Hundred Seventy Four Million, Seventy Six
15 Thousand, Two Hundred Seventy Uganda Shillings) illegally collected from the applicant's account, a declaration that the respondent breached the contract, a declaration that the terms of the contract between the parties were unfair, oppressive, unjust and illegal thus unenforceable, that the business term loan agreement was illegal and unenforceable in the alternative without prejudice
20 and moving Court to declare that the contract was frustrated.

That on 10th September, 2021, the respondent's agents stormed the Applicant's premises to impound her vehicles pursuant to the Respondent's demand notice and they have been trailing the Applicant's vehicles to impound the same. The applicant also got the information that the respondent
25 had moved to fraudulently sell of the mortgaged land. The applicant then filed an application for a temporary injunction in the High Court vide HCMA 1198 of 2021 together with an application for an interim order of stay vide HCMA No.1199 of 2021 and when the said applications came up for hearing, with

5 the consent of the parties, the status quo was maintained and a date for the ruling in HCMA No.1198 of 2021 was set.

When the main suit came up for hearing before Mubiru, J on 9th November, 2021 and after the applicant/ plaintiff in HCCS No.569 of 2021 had led her first witness partially, counsel for the respondent informed Court that there
10 was an application for a temporary injunction pending ruling before the Registrar. The matter was stood over and the trial Judge perused the pleadings and submissions. In his orders, the trial Judge granted the temporary injunction on condition that the applicant deposits UGX 1,000,000,000/= (One Billion Uganda Shillings) within 14 days. The order
15 maintaining the status quo was vacated.

The applicant filed a notice of appeal in this Court showing her intention to challenge the said ruling. The applicant subsequently filed Miscellaneous Application No.370 of 2021 for a temporary injunction and also filed Civil Application No.371 of 2021 and the same was dismissed by Mulyagonja, JA
20 with costs to the respondent. The applicant then filed Miscellaneous Application No.622 of 2022 which is the instant application seeking for an interim order of stay of the orders in Civil Suit No.569 of 2021.

The Notice of Motion and Supporting Affidavit deponed by Johnson Musinguzi, the Director of the Applicant dated 1st August, 2022 contain the
25 following grounds on which the Application is premised:

1. *That the applicant filed Civil Suit No.569 of 2021 against the respondent for, inter alia;*

- 5
- i. *A declaration that the respondent made illegal charges and deductions from the applicant's account*
 - ii. *Refund of UGX 174,076,270/= (One Hundred Seventy-Four Million, Seventy Six Thousand, Two Hundred Seventy Uganda Shillings) illegally collected from the applicant's account,*
 - 10 iii. *A declaration that the respondent breached the contract*
 - iv. *A declaration that the terms of the contract between the parties were unfair, oppressive, unjust and illegal thus unenforceable*
 - v. *That the business term loan agreement was illegal and unenforceable in the alternative without prejudice*
 - 15 vi. *Also moving Court to declare that the contract was frustrated.*
2. *That meanwhile, the respondent was threatening to impound the applicant's vehicles inter alia, which saw the applicant file an application for a temporary injunction before the High Court Commercial Division vide Misc. Application No. 1198 of 2021 together with an application for an*
- 20 *interim order vide Misc. Application No.1199 of 2021.*
3. *That when the said matter came up for hearing, the Registrar, with the consent of parties maintained the status quo in the application for interim order and directed parties to file written submissions for a temporary injunction and set the date for ruling in HCMA 1198.*
- 25 4. *That when the main suit came up for hearing on 9th November, 2021, and after the applicant/plaintiff in HCCS No.569/21 had led her first witness partially, counsel for the respondent informed Court that there was an application for a temporary injunction pending ruling before the Registrar.*

- 5 5. *That the trial Judge immediately called the file, stood over the matter and perused the pleadings and submissions.*
6. *That the trial Judge granted the temporary injunction on condition that the applicant deposits UGX 1,000,000,000 (One Billion Uganda Shillings) within 14 days.*
- 10 7. *That the order maintaining the status quo was vacated.*
8. *That the condition was unfair because it was the applicant who had filed the main suit, HCCS 569 of 2021 praying that the respondent refunds the excess sums illegally deducted from her account.*
9. *That the respondent had not filed any counterclaim against the applicant.*
- 15 10. *That the applicant decided to appeal against the said decision and orders.*
11. *That she subsequently filed the main application for a temporary injunction*
12. *That the main application has high chances of success.*
- 20 13. *That if this application is not granted, the main application shall be rendered nugatory.*
14. *That the said agents continue to harass the applicant's officials with threats of impounding the sad properties and if not restrained, the appeal shall be rendered nugatory.*

25 The application was opposed by the respondent who filed an affidavit in reply deponed by Anthony Magezi, the Manager Recoveries Business and Commercial Clients of the respondent dated 15th September, 2022 briefly stating that;

- 5 1. *This application is barred by law and should be dismissed with costs on grounds that the application is res judicata having been heard and determined in Misc. Application No.371 of 2021 by Hon. Lady Justice Irene Mulyagonja, JA*
- 10 2. *This appeal and the applications arising thereunder are an abuse of Court process and the respondent shall pray that this application is dismissed with costs borne by the respondent.*
3. *That the applicant has instituted several suits and applications on the same subject matter as set out hereunder.*
- 15 a) *Civil Suit No.569 of 2021 pending in the High Court wherein it sought a permanent injunction to stop the sale of the suit property*
- b) *High Court Civil Suit No.13 of 2022 wherein it sought a permanent injunction to stop the sale of the mortgaged property. The Applicant further sought an interim order and temporary injunction in the said suit. An interim order was granted pending the hearing of the main applications before the trial Judge.*
- 20 c) *Court of Appeal Misc. Application No.371 of 2021 seeking for an interim order stopping the sale of the mortgaged property pending determination of the main application, MA 370 of 2021.*
- d) *Court of Appeal Misc. Application No.370 of 2021 seeking for a temporary injunction stopping the sale of the mortgaged property.*
- 25 e) *The instant case Misc. Application No.622 of 2022 seeking for an interim order stopping the sale of the mortgaged property pending the hearing and determination of MA 370 of 2021.*

- 5 4. *The instant application is in all material particular similar to MA No.371 of 2021 which was heard and dismissed by Hon. Lady Justice Irene Mulyagonja, JA*
- 10 5. *This application is in contempt of the High Court order. The applicant was ordered by the High Court to pay UGX 1,000,000,000 as a condition for the grant of the temporary injunction. This condition was not met and the applicant has not obtained a stay of execution.*
- 15 6. *This application is incompetent because the applicant has no pending appeal before this Court.*
- 15 7. *This application is a further abuse of Court process. That the trial Judge in MA 1620 of 2021 ordered for the sale of the moveable securities. This order has not been appealed by the applicant who seeks to stay it in this application.*
- 20 8. *Through a lease letter of offer dated 3rd February, 2016, the respondent offered the applicant a lease facility for the purchase of 3 Toyota land cruisers; a ford Ranger double cabin pickup and a Mercedes Benz GLS 350D for the plaintiff's directors' use.*
- 25 9. *The applicant availed to the respondent a copy of a board resolution in which all its directors resolved that it was agreeable to obtain the loan.*
- 25 10. *The applicant obtained 4 motor vehicles which are the property of the respondent and the respondent has a right to take possession of them in the event of default*
11. *On the 14th of July, 2016, the applicant mortgaged to the respondent its land located on Block 110 Plot 2388 to further secure a mortgage it had obtained via facility letters dated 29th June, 2016*

5 amounting to UGX 3,990,000,000. The applicant also offered a collateral debenture to the respondent amounting to UGX 1,440,000,000.

12. That pursuant to the loan facility letter, on the 11th of August, 2016, the respondent disbursed the sum of UGX 2,516,667,921/= which was the sum outstanding on the loan the applicant had with Crane Bank Uganda Limited.

13. I know the that the applicant's outstanding sum on the midterm loan as at 23rd October, 2018 was UGX 2,308,009,890 and the current account was overdrawn to the sum of UGX 179,489,977/=

14. By April, 2018, due to the applicant's indebtedness and default, it requested for a restructure of its loan facilities through its letter dated 30th April, 2018.

15. All the charges and interest were levied in accordance with the terms of the facility agreement and in good faith.

16. When the main suit vide Civil Suit No.569 of 2021 came up for hearing, it was brought to the attention of the learned trial Judge that the application for the temporary injunction was still pending.

17. The learned trial Judge made his orders granting the temporary injunction on condition that the applicant pays a sum of UGX 1,000,000,000 within a period of 14 days.

18. The appeal has no chance of success.

19. It is in the interest of justice and equity that this application is dismissed with costs.

- 5 The applicant filed an affidavit in rejoinder deponed by Musinguzi Johnson, dated 28th September, 2022 briefly stating that;
- i. *The threat of selling off the applicant's land has intensified.*
 - ii. *The respondent has hastened the efforts to sell of the said land to third parties.*
 - 10 iii. *Third parties have approached company officials to confirm whether or not it is safe to purchase the said land with the machinery given the ridiculously lowered price the respondent had offered the same at.*
 - iv. *The respondent whom already advertised the said land for sale, as per the affidavit can sell off the same any time before the ruling is delivered.*
 - 15 v. *If the application is not granted, the applicant shall suffer irreparable damage as she shall lose her office, machinery, and all the equipment, seeing her business come to a halt.*
 - vi. *If the application is not granted, the appeal shall be rendered nugatory.*
 - vii. *It is just and equitable that this Honorable Court issues an interim order*
20 *maintaining the status quo pending the hearing and disposal of the main application.*

At the hearing of the application, Allan Bariyo appeared for the applicant while the respondent was unrepresented.

Both counsel filed written submissions which they adopted at the hearing.

- 25 Counsel for the applicant submitted that it was in the interest of justice that an interim order doth issue halting the sale of immovable security/land comprised in Mawoto Kyaggwe Block 110 Plot 2388 pending the determination of the main application. Further that if the sought orders were

5 not granted, the appeal and the main application would be rendered nugatory and the applicant shall suffer irreparable damage as the sale of the said property shall bring applicant's business to a halt. He relied on Rules 2 (2) and 6(2) (b) of the Rules of this Court for the inherent powers of this Court to issue orders such as the one sought here.

10 Counsel further submitted that the applicant had already filed an appeal and if an interim order is not granted, the applicant's said land shall be disposed of before the appeal is heard thereby causing a miscarriage of justice and in effect, both the appeal and the main application before this Court shall be rendered nugatory. Counsel added that the applicant in her affidavit in
15 support and supplementary affidavit clearly puts it to the attention of Court that the respondent had already moved to sell off the said land and yet the said land constitutes the applicant's premises and houses all her fixed machinery which cannot be severed from the land safely and the other vital tools of trade to the applicant's business. According to counsel, if the said
20 land is sold off, the applicant's business shall have been wound up in effect. He relied on **Hon. Theodre Sekikubo & 3 Ors V The Attorney General & Ors, Constitutional Application No.04 of 2014** where Court granted an order on the basis of the evidence that was availed to Court by the Applicant's affidavits that there was indeed a serious threat.

25 Counsel further submitted that an interim order ought to issue halting the sale of movable securities pending determination of the main application because the said motor vehicles constitute vital tools of trade to the applicant. He added that the respondent in bad faith and abuse of Court process with a

5 view to circumvent the main application applied for orders to attach and sell the said vehicles without disclosing the existence of Miscellaneous Application No.370 of 2021 pending before this Court. He prayed that the application be allowed.

In response, counsel for the respondent opposed the application and raised 2
10 preliminary objections; first that this application was an abuse of Court process. He submitted that the applicant filed Misc. Application No.371 of 2022 in this Court seeking for similar orders. The application was heard by Lady Justice Irene Mulyagonja and a ruling dismissing the application was delivered by this Honorable Court on 28th January, 2022. Further, that the
15 applicant had not taken any essential step to fix the substantive application vide MA 370 of 2021 pending before this honourable Court since January, 2022 and has instead brought the same application before this Court well aware of the decision of the Court.

Counsel further submitted that the applicant had harassed the respondent
20 with numerous applications on the same subject matter. That the applicant filed Civil Suit No.567 of 2021 before the High court and thereunder sought a temporary injunction and an interim injunction under Miscellaneous Applications 1198 and 1119 of 2021 respectively. Miscellaneous Application No.1198 of 2021 was heard by Mubiru, J who granted a conditional
25 injunction. The applicant thereafter filed Civil Suit No.13 of 2022 and Miscellaneous Applications No.12 and 13 of 2022 seeking a temporary injunction and interim injunction respectively. He added that all the suits instituted by the applicant both in the High Court and in this Court and

5 injunctions granted and sought thereunder refer to the same mortgaged property Plot 2388 Kyagwe Block 110 and motor vehicles. In counsel's view, the applicant is forum shopping and this conduct amounts to abuse of Court process which would only succeed in clogging the Courts with cases.

Regarding the second preliminary objection, counsel submitted that
10 Miscellaneous Application No.622 of 2022 is barred in law for being res judicata and ought to be dismissed. He added that the facts raised in the application before this Court were presented in the same form and seeking for the same orders in Miscellaneous Application No.371 of 2022, as well as the parties in the instant suit are exactly the same as those in Miscellaneous
15 Application No.622 of 2022 wherein judgment was duly delivered. According to counsel, the doctrine of res judicata is a fundamental doctrine to the effect that there must be an end to litigation. He relied on section 7 of the Civil Procedure Rules to the effect that no Court shall try any suit or issue in which the matter directly and substantially in issue has been heard and finally
20 decided.

Counsel further submitted that the applicant filed this application and Civil Application No.371 of 2021 both in the High Court and Court of Appeal and injunctions granted or sought thereunder refer to the same mortgaged property plot 2388, Kyagwe Block 110 and motor vehicles. Furthermore,
25 judgment was duly delivered on 28th January, 2022 in respect to Civil Application No.371 of 2021 and all matters that were to be litigated were determined thereunder and adjudicated. He added that this Court was functus officio and the matter was duly determined and judgment issued in

5 respect to this matter. He prayed that this Court finds that the application was barred in law and the same be dismissed with costs to the applicant.

Counsel submitted that the appeal has no likelihood of success because the days within which to file the appeal had lapsed on 15th January, 2022. Counsel added that the applicant attached a record of appeal and a
10 memorandum of appeal filed on 9th August, 2022, seven months after the ruling of this Court. Counsel further submitted that Mulyagonja, JA noted that the proceedings and the ruling were available by 16th November, 2021 but the applicant did not file its appeal until after 7 months. According to counsel, the instant application was only brought to further frustrate the
15 respondent's recovery of the outstanding sum.

Regarding the existence of an imminent threat, counsel submitted that it was not in doubt that there was no threat at all to warrant the grant of this application because there was no advert for sale of the mortgaged property. Further that the Motor Vehicles that the applicant refers to had already been
20 the subject of sale to third parties. He added that the High Court in HCMA 1620 of 2021 issued orders granting leave to the respondent to attach and dispose of the motor vehicles. Pursuant to the Court orders, the respondent advertised and sold the motor vehicles in public auction therefore this application is overtaken by events in respect of the motor vehicles.

25 Counsel submitted that the applicant does not come before this Court with clean hands and the orders sought in this application being equitable and discretionary remedies, the applicant is not entitled to their grant for having unclean hands. He relied on ***Shumuk Properties V Guaranty Trust Bank,***

5 **CACA No.220 of 2018.** Further that the applicant is in contempt of orders made by Mubiru, J in Misc. Application No.1198 of 2021 where it was ordered to pay UGX 1,000,000,000 within 14 days which it had to date refused to pay. In rejoinder, counsel for the applicant submitted that the respondent's submission that the instant application was an abuse of Court process was
10 misconceived because Misc. Application No.371 of 2021 was not determined on its merits. The learned trial Judge dismissed the said application on a technicality that the same had been filed before the memorandum of appeal had been lodged. In counsel's view, such an application is not res judicata and this Court is not functus officio in the matter.

15 Counsel further submitted that in an endeavour to frustrate the main application so as to render the prayers in Misc. Application No.370 of 2021 nugatory, the respondent filed Misc. Application No.1620 of 2021 to sell off the said motor vehicles well knowing that the application for a temporary injunction was pending before this Court. Counsel added that the orders in
20 Misc. Application No.1620 of 2021 only affected the Motor Vehicles and not the land and as such there was nothing to stop this Court from issuing the interim order in respect to the land.

Counsel submitted that there was no evidence that the said vehicles had been sold off because the respondent did not attach the respective return of
25 execution in contravention of the law. In counsel's view, since the respondent did not prove that the said sale took place and an order stopping the sale would not in any way prejudice the respondent. He added that the execution of such orders had to be effected in the same manner as of execution of

5 decrees and if the law was flouted, the sale is set aside. He relied on **Lawrence Muwanga V Stephen Kyeyune (Legal Representative of Christine Kisamba, deceased) SCCA No.12 of 2001** for the proposition that a judicial sale is liable to be set aside on appropriate proceedings by a person challenging it.

10 I have carefully studied the submissions of both counsel and considered the evidence on record.

Before I delve into the merits of this application, the respondent raised 2 preliminary points of law first that this application was an abuse of Court process and secondly that the application is barred in law for being res
15 *judicata*.

Counsel for the respondent submitted that the applicant filed Misc. Application No.371 of 2022 in this Court seeking for similar orders. The application was heard by Lady Justice Irene Mulyagonja and a ruling dismissing the application was delivered on 28th January, 2022. Further, that
20 the applicant has not taken any essential step to fix the substantive application, MA 370 of 2021 which remained pending before this honourable Court since January, 2022 and has instead brought the same application well aware of the earlier decision of the Court.

I have looked at Civil Application No.371 of 2021 where the applicant sought
25 an interim order prohibiting the respondent from attaching, selling or in any way disposing of the securities for a loan facility advanced to the applicant in an agreement dated 8th October, 2018, or in respect of the medium term loan

5 and lease facility agreements dated 21st July, 2016, pending the
determination of the main application pending before this Court. The
applicant further sought an interim order prohibiting the respondent from
charging further interest on the monies claimed from the said transactions,
pending the determination of an appeal pending before this Court, as well as
10 the costs of the application.

In dismissing the application, Mulyagonja, JA stated as follows;

*“In conclusion, the applicant already has an order to stay the sale of the
property in issue that was issued by the Registrar of the Commercial
Division of the High Court on 11th January, 2022. She has two suits
15 pending before the High court and should attend before Mubiru, J on 31st
January, 2022, as ordered by the Registrar in Misc. Application No.12 of
2022.*

*On the other hand, the applicant has no appeal pending before this Court
because she wilfully delayed the filing thereof, though she secured the
20 proceedings of the High Court and the ruling that she intended to appeal
against before she filed this application on 26th November, 2021. Albeit
not certified by the Registrar. There is no credible evidence on record that
her lawyers made any effort to secure certification thereof. This Court
therefore has nothing to preserve by granting an order for an interim
25 temporary injunction.”*

The evidence on record shows that the applicant filed Civil Suit No. 567 of
2021 in the High Court and sought temporary and interim Injunctions in

5 Miscellaneous Applications Nos. 1198 and 1119 of 2021 respectively. That
when Misc. Application No.1198 of 2021 was granted with a conditional order
against the applicant. The applicant subsequently filed Civil Suit No.13 of
2022 and Misc. Application No.12 of 2022 for a temporary injunction and
Misc. Application No.13 of 2022 for an interim injunction. The interim order
10 was granted by Her Worship Nabakooza on 11th January, 2022, to run till 31st
January, 2022.

The respondent then filed Miscellaneous Application No.1620 of 2021 seeking
an order to attach and dispose of the motor vehicles which constituted part
of the collateral. Mubiru, J granted the order and ordered as follows;

15 *“The applicant is hereby granted leave to attach and dispose of the
following motor vehicles; three (3) Toyota Land Cruisers Reg. Numbers-
UAY 347S, UAY 891P and UAZ 891V, one Ford ranger double cabin pick-
up truck Reg. Number UAY 082P. The proceeds of the sale are to be
applied towards partial discharge of the respondent’s indebtedness to
20 the applicant.”*

This ruling was delivered on 7th March, 2022 as per annexure “P” attached
to the affidavit in reply of Anthony Magezi. Surprisingly, the said ruling was
delivered long after Mulyagonja, JA had dismissed the applicant’s application
for an interim injunction in Civil Application No.371 of 2021 which was
25 delivered on 28th January, 2022.

I am not persuaded by the Respondent’s argument that the instant
application is res judicata because this application raises new facts which in

5 my opinion are different from those in Civil Application No.371 of 2021. Further Civil Application No.371 of 2021 before Mulyagonja, JA was never heard on its merits but was dismissed on technicalities, the applicant is said to have delayed in filing an appeal before this Court. From the evidence on record, the applicant filed a Notice of Appeal in this Court on 19th November, 10 2021 and Civil Application No.371 of 2021 on 26th November, 2021. This means that by the time the applicant filed the said application before Mulyagonja, JA, there was a valid Notice of Appeal before Court but the learned Judge dismissed the application on grounds that the applicant had delayed in filing the appeal.

15 Further Mubiru, J having delivered his ruling long after Mulyagonja, JA, I believe the status quo has changed. The respondent submitted that the motor vehicles that the applicant referred to had been sold to third parties because the High Court in HCMA 1620 of 2021 issued orders granting leave to the Respondent to attach and dispose them but did not avail any evidence to show 20 that the said motor vehicles had been sold.

I am therefore, of the view that the Application is rightly before the court.

Rule 2(2) of the rules of this Court provides the Court with inherent powers to make such orders as maybe necessary for attaining the ends of justice.

In ***Zubeda Mohamed & Sadru Mohamed V Laila Kaka Wallia & Anor,*** 25 ***Supreme Court Civil Reference No.07 of 2016*** which cited with approval ***Hwan Sung Industries Ltd vs. Tajdin Hussien and 2 others SCMA No. 19 of 2008*** where the Supreme Court laid down what should be taken into

5 account when considering an application for interim stay of execution. It
stated;

10 *“Considerations for the grant of an interim order of stay of execution or
interim injunction are whether there is a substantive application pending
and whether there is a serious threat of execution before hearing of the
substantive application. Needless to say, there must be a Notice of
Appeal. See **Hwan Sung Industries Ltd vs. Tajdin Hussien and 2
others SCMA No. 19 of 2008.***

*In summary, there are three conditions that an applicant must satisfy to
justify the grant of an interim order:*

- 15
1. *A competent Notice of Appeal;*
 2. *A substantive application; and*
 3. *A serious threat of execution.”*

The record shows that the applicant filed a Notice of Appeal on 19th November,
2021 in this Court and a copy marked annexure “N1” was attached to the
20 affidavit of Johnson Musinguzi. The same was served on the Respondent’s
advocates on 19th November, 2021. The applicant also filed a Memorandum
of Appeal as well a Record of Appeal marked as annexure “A” and attached
to the affidavit in rejoinder of Johnson Musinguzi.

A substantive application No. 370 of 2021 was filed in this Court on 26th
25 November, 2021.

On whether there exists a serious threat, the applicant averred that the
respondent’s agents stormed the applicant’s premises on 10th September,

5 2021 to impound the motor vehicles pursuant to the demand notice and that
the said motor vehicles were in the respondent's custody. Further that the
said Motor Vehicles constitute vital tools of trade to the applicant's business
and in their absence, her business shall come to a standstill. The applicant
further submitted that the land and building constitute the applicant's
10 business premises and houses all her fixed machinery which cannot be
severed from the land safely and other vital tools of trade to the Applicant's
business.

In his submission, the respondent stated that the motor vehicles that the
applicant refers to have already been sold to third parties because the High
15 Court issued orders granting leave to the Respondent to attach and dispose
them. As stated above, the respondent did not avail any evidence to show that
the said motor vehicles had been sold.

What is clear is that there is a serious and persisting threat to the applicant's
tools of trade.

20 For the reasons above, I allow the application and make the following
orders: -

1. An interim order is hereby issued prohibiting the respondent from
attaching, selling or in any way disposing off the loan securities for the
facility purportedly advanced to the applicant by agreements dated 8th
25 October, 2018 and 21st July, 2016 pending the determination of the
main application pending before this Court.

5 2. The costs of this application shall abide the outcome of the substantive application for an order of injunction.

3. The Registrar of this Court is directed to cause list Miscellaneous Application No. 370 of 2021 for hearing within the next 21 days failure of which the order will lapse upon expiry of the 21 days.

10 I so order.

Dated at Kampala this 18th day of Oct 2022.



Cheborion Barishaki

JUSTICE OF APPEAL