

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
[COMMERCIAL COURT]

M.A No. 096 of 2021

**(Arising from M.A No. 968 of 2021, M.A No. 967 of 2021
& Civil Suit No.235 of 2019)**

MFK CORPORATION LTD :::::::::::::::::::::::::::::::::::::::APPLICANT

VERSUS

DIAMOND TRUST BANK (U) LTD:::::::::::::::::::::::::::::::::::::RESPONDENT

BEFORE: HON. JUSTICE DUNCAN GASWAGA

RULING

[1] This is an ex parte application for a 'Certificate of Urgency' brought by the applicant under Section 33 of the Judicature Act, Section 98 CPA, Order 52 rules 1, 2 and 3 of the Civil Procedure Rules SI 71-1 and Rule 4 SI No. 13-20 (Judicature Court Vacation Rules) to hear an application for interim order **M.A No. 968 of 2021** and an application for a temporary injunction **M.A No. 967 of 2021**. The application is supported by an affidavit of the applicant's director, Abbey Kyeyune Mbabaali which expounds on the grounds relied on and are briefly as follows;

1. *That the applicant filed M.A No. 968 of 2021 and M.A No.967 of 2021 all arising from Civil Suit No.235 of 2019 seeking for orders against the respondent bank*



to stop the liquidation or sale of properties that are a subject in Civil Suit No. 235 of 2019.

- 2. That the actions of the respondent are an abuse of court process and as such a certificate of urgency is required to be issued in order for M.A No. 968 of 2021 to be heard.*
- 3. That if the application is not heard during court vacation, the applicant will suffer substantial loss and irreparable damage as a result of the sale of the advertised properties.*
- 4. That it is in the interest of justice that court grants the relevant orders to stop the respondent and or her agents from selling the suit property.*

[2] It was submitted for the applicant that the targeted actions which are sought to be enjoined are trespass on the specified properties, eviction of the owners' tenants therefrom and sale/ disposal of the suit land slated for 17/08/2021. That however due to the nationwide lockdown and court vacation, it wouldn't be possible to get the injunctive relief as fast as possible. Also that the respondent had earlier refused to heed the orders of this court by refusal to render an account of the same properties for which it has already issued notice of disposal. That this application meets the test of urgency and as such the same ought to be granted. Counsel prayed that the application for interim order be fixed and directions be made for submission on the same.



[3] According to rule 4 of the **Judicature (Court Vacation) Rules SI 13-20,**

“In vacation the court shall deal with criminal business but shall not sit for the discharge of civil business other than such civil business as shall, in the opinion of the presiding judge, be of an urgent nature.”

[4] After diligently perusing the pleadings on record and also Counsel's submissions, I find that the application carries merit. It should be noted that the application is brought under Rule 4(supra) which specifically caters for urgent matters that need to be handled during court vacation. If the application is not granted, the applicant stands to suffer irreparable loss at the hands of the respondent who seeks to take advantage of the lockdown and court vacation to pull through with the disposal of the properties. Indeed it is apparent that time is of the essence.

[5] **Accordingly, the interests of justice dictate that a certificate of urgency as sought by the applicant be and is hereby granted pursuant to rule 4 of the Judicature (Court Vacation) Rules SI 13-20.**

[6] In the circumstances therefore, the Registrar of this court is hereby directed to fix the application for interim order **M.A No. 968 of 2021** and the application for a temporary injunction **M.A No. 967 of 2021** for hearing and also ensure that the applicants notify and serve the relevant Court process on the respondents.

[7] Costs of this application are to be provided for.

I so order.

Dated, signed and delivered this 23rd day of July 2021

A handwritten signature in black ink, appearing to read "Duncan Gaswaga", written in a cursive style.

Duncan Gaswaga

JUDGE