

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

M.A No. 966 of 2021

Arising from M.A No. 965 of 2021

Arising from Civil Suit No. 305 of 2021

ALEX KATUNGYE.....:APPLICANT

VERSUS

GOLDMINE FINANCE LIMITED.....:RESPONDENT

BEFORE: HON. JUSTICE DUNCAN GASWAGA

RULING

[1] This is an ex parte application for a 'Certificate of Urgency' brought by the applicants under 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 temporary injunction **M.A No. 965 of 2021**. The application is supported by an affidavit of the applicant, Alex Katungye which expounds on the grounds relied on and are briefly as follows;

- 1. That the applicant is the owner of land comprised in Mengo Block No. 10 Plot No.1171 land at Bukesa Hill Kampala and that he obtained a loan from the respondent and failed to pay due to the effect of the Covid-19 pandemic. The applicant requested the respondent to reconcile figures but upon being*

unresponsive, the applicant filed Civil Suit No.305 of 2021.

- 2. That the applicant has filed an application for a temporary injunction which is pending disposal in court.*
- 3. That the courts are not fully operational due to the existence of a lockdown and due to the court vacation during which the respondent has advertised the property for sale before the disposal of the main suit.*
- 4. That the application for a temporary injunction is urgent and that it is just and equitable that the application is allowed.*

[2] It was submitted for the applicant that the main ground for this ex parte application is that courts are on vacation and there is a partial lockdown of the country imposed by His Excellency the president of the Republic of Uganda which rendered courts not fully operational save for matters of an urgent nature. That the respondent has since advertised the suit property and if this application is not allowed the main application will be rendered nugatory since the respondent's agents are due to sell the suit property by 21/07/2021.

[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. I am convinced that this is a fit and proper case where an exception should be made for it to be heard during this period. If the application for temporary injunction is not heard now, yet the respondent intends to carry through with the sale of the property as indicated in the Daily Monitor newspaper, there is a high likelihood of injustice being occasioned to the applicant.
- [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 temporary injunction HCMA 965 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 22nd day of July 2021



Duncan Gaswaga

JUDGE