

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA -**  
**MISCELLANEOUS, CAUSE: NO 59 OF 1994**  
**IN THE MATTER OF SECTION 9 OF THE JUDICATURE ACT NO.11 OF 1967**  
**AND**  
**IN THE MATTER OF AN APPLICATION FOR GUARDIANSHIP. OF IVAN OKOTH**  
**(MINOR TILL 2008) AND CLIVE OKOTH (MINOR TILL 2012) BY MRS IRENE**  
**JULIET OKOTH THE NATURAL MOTHER OF THE INFANTS**  
**AND**  
**IN THE MATTER OF MENG0 BLOCK 10. 442 PLOT NO. 39.88 ACRES AT**  
**BUSEMBAGA AND BUNONO**  
**BEFORE:THE HONOURABLE LADY JUSTICE M. KIREJU**  
**RULING:**

The applicant Irene Juliet Okoth has applied to court under section 9(a), 17(2) and 32 of the judicature Act and Order 48 rules 1 and 3 of the Civil Procedure Rules and S. 101 of Civil Procedure Act for an order that she be appointed legal guardian of the infants Ivan Okoth Clive Okoth, aged 14 and 11 years respectively, birth Certificates are on record. The applicant is the natural mother of the infants.

The main ground of this application is that the infants are the joint owners together with their mother and maternal auntie Catherine J. Fernandes of land registered as Plot 3 Block 442, Mengo District, which the applicant wants, to sell part of it, 0.5 of an acre so that she could use the proceeds there of to buy a plot at Seguki Training Centre which can more advantageously be developed to generate more income for the welfare and upkeep of the infants.

The said land is situated at Busambaga and Bunono which is a village area a photocopy, of the Certificate of Title was attached to the affidavit of the applicant as Annexure 'G' From the affidavit of the applicant paragraph (9) she states that she bought the land to cater for the future needs and welfare of the infants. Her proposal to sell part of the land is also intended to benefit the infants. - The alternative Plot at-Seguku Trading Centre has already been identified and it is

registered in the names of mukiibi Mityaba Stephen, Plot 418 B1ock 266 Kyandondo on per Annexure” to the affidavit. She is of the view that the plot at Seguku if bought and a commercial building constructed thereon will be more beneficial and financially advantageous to the children.

The applicant by the time she swore the affidavit, she had stated that she was married but had since separated from the husband who was the father of the children. However, by the time the application came for hearing she informed court through her counsel Mr. Bwanika that the husband died in a plane crash on 30/3/1994. She further stated in her affidavit that the children were still young and going to school and needed a concrete plan to cater for their future needs. Catherine J. Fernandez in her affidavit dated 29/3/94, paragraph 3, stated that as joint registered proprietor of the said land. She had no objection to the applicant’s intention to dispose off a portion of the land measuring 0.50 acres for in the better investment of the children and she had no objection to the applicant being appointed as guardian of the Children for the purpose. Mr. Bwanika, who presented the application on behalf of the applicant, led court through the notice of motion and the supporting affidavits.

He submitted that the proposed arrangement was for the interest and welfare of the children and invited court to grant the application as prayed. He referred court to the following cases where this court made orders in similar situations.

1. Misc. Application No.43of 1993. In the Matter of Marie Christine Valvo an Infant and application by Sara Nakitende for guardianship

2. Misc. Application No. 16 of In the matter of Angela Muvumba and application by Victoria Muvumba to appoint guardian o the infant Angela Muvumba.

3, Misc. Cause No. 15/93. Application by Rose Nagujja Katende for an Order appointing her guardian of John Paul Sengo an infant. -.

4. Misc. Cause N. 13 of 1992 Application for guardianship of Mirembe Ramona Zalwango & Nakalema kissakye Ramona Kagwa by Sam Kisakka Kagwa and Juliet nabachwa kagwa

Section 9 (a) of the Judicature Act confers jurisdiction upon this court, to appoint and control guardians of infants and the estates of infants. From the authorities it is well established that in cases of guardianship the guiding principle is the welfare of the infant .the wide discretion granted to this court under the above provision if the law must be exercised with great care so that the infant does not suffer materially or otherwise. In the instant case the applicant is the natural mother of the infants, the father of the children is dead and the responsibility to take care of the children rests squarely on her. She bought the land which, she seeks to sell part thereof for the benefit of the children. she intends to buy another piece of land in a commercial area in order to develop it and get money for the benefit of the children.

Catherine Fernandes who is also a registered proprietor of the same land has no objection to the proposed arrangement. I have seen the applicant in court and she struck me as a responsible mother with the interest of her children at heart. I am therefore satisfied that the appointment of the applicant as legal guardian of the infant would be in the interest and of great benefit to the children. The application is accordingly granted. Mrs. Irene Juliet Okoth is hereby appointed legal guardian of Infant Ivan Okoth and Clive Okoth with powers to sell 0.5 acres being part of the land comprised in Block 442 plot no. 3 at Busambaga and Bunono Busiro, on behalf of the infants and in their interest, and for their benefit. I so order

M. Kireju

Judge

1/5/94

Applicant in court. Lawyer Mr. Bwanika absent.

Miss Getrude. –

Ruling read in Chambers. Mr. Bwanika for the applicant appears in the middle of delivering of the ruling.