## THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT KAMPALA MISCELLANEOUS APPLICATION NO. 536 OF 2002 (ARISING FROM HCCS NO. 512 OF 2002)

KANA NAKAYIMA NSUBUGA ::::::RESPONDENT

## BEFORE THE HONOURABLE JUSTICE F.M.S EGONDA-NTENDE RULING

This is an application for an interim order for a temporary injunction pending the hearing of an application for a temporary injunction. It is made under Sections 65 and 101 of the Civil Procedure Act and Section 40(3) of the Judicature Statute.

The grounds of this application are that:

- a) The respondent has threatened forcefully evicting the applicant from the land in issue
- b) the respondent had set a date for eviction on 19.8.2002
- c) that if eviction is carried out, it will render the applicant's suit nugatory and applicant is bound to suffer irreparable loss.

As proof of the likelihood of suffering irreparable loss the applicant has filed an affidavit sworn on the 16th August 2002. It states in part:

7. "That I have filed a suit in the High court seeking among other things a declaration that I am a bonafide/lawful occupant of the above said land and seeking a permanent injunction restraining the respondent from ever attempting to evict me there from and I am convinced that my suit has a high chance of success."

9. "That if the court does not accord me an interim remedy in the meantime while the suit and main application are being fixed for hearing and if the respondent is not stopped from her treacherous attempts of trying to forcefully evict me from this land, I am bound to suffer irreparable loss since this is the land where I and my family live and it is all we have got of the estate of my late husband."

In paragraph 10 of the affidavit the applicant states that if eviction proceeds the purpose of the suit will be defeated and she will suffer irreparable harm.

Apart from stating that she lives on the land in question, her affidavit does not disclose what she has on the land in dispute. No mention is made of the developments on the land. Are there several houses on it or not? It appears this court is left to assume that since she states that she lives on the land, she probably has a house or grows crops on the same on which she depends. That is the first short fall in this application.

On the other hand the land in dispute is stated to be part of the estate of her late husband. No mention is made if there is an administrator in law of that estate. It is questionable whether without a grant of letters of administration or probate the applicant can establish rights to her husband's estate in this court.

Lastly in paragraph 7 of her affidavit the applicant describes herself as a "bonafide/lawful occupant" of the land in question. Bonafide occupant and lawful occupants are concepts introduced by the Land Statute 1998 and in particular, section 30 thereof. The two mean different things. I am not sure whether one can be both within the Land Statute.

In the circumstances, the applicant has failed in my view to establish a thresh-hold upon which this court can exercise its discretion to grant an interim order for a temporary injunction as she has failed to show what loss, let alone irreparable loss1 she may suffer.

It is possible that she will suffer loss and irreparable loss too. But this has not been shown in the papers she filed before this court. I accordingly decline to issue the order requested fore I dismiss this application.

I order that the main application be heard on the 28th August 2002 at 9.00 a.m.

F.M.S. Egonda-Ntende

Judge.

22.8.2002.