

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
MISCELLANEOUS APPLICATION NO. 316 OF 2009 (Arising from Civil Suit NO. 134 of 2009)

CISSY NAMULI BUWEMBO	: : : : : : : : : : : :	APPLICANT
VS		
NABAKA JESCA NYOMBI	: : : : : : : : : : : :	RESPONDENT

RULING OF HON. MR. JUSTICE JOSEPH MURANGIRA

I. INTRODUCTION

The applicant, **Cissy Namuli Buwembo**, through her lawyers, Ms. Katende, Sempebwa & Co. Advocates brought this application against **Nabaka Jesca Nyombi**, the respondent; The application is for a temporary injunction. The application was heard exparte. Ruling was reserved. The application is allowed with costs to abide the results of the main suit based on the reasons I have given in this ruling.

II. BACK GROUND OF THE APPLICATION

This application is by way of chamber summons. It is brought under order 41 rules 1, 2 and 9 of the Civil Procedure Rules and section 98 of the Civil Procedure Act, cap 71. It is seeking for the following orders:

1. An order for a temporary injunction doth issue restraining the respondent, her agents, transferees, assignees, successors in title or any person claiming under or a similar interest to that of the respondent from entering and subdividing into plots with intervention to sell the applicants land comprised in Kibuga Block 11 plot 85, situate at Kabowa in Kampala District until the main suit is heard and determined on it's merits.
2. The costs of the application be provided for.

III. GROUNDS OF THE APPLICATION

The application is supported by the affidavit of the applicant; which contains the grounds upon which the application is based. They are:-

- (a) That the applicant filed Civil Suit No. 134 of 2009 in May, 2009, for trespass on the suit land.
- (b) That the application has a prima facie case to the main suit with a high probability of success which would be rendered nugatory if this application is not granted.
- (c) That the balance of convenience requires that this application be granted.
- (d) That there is a high likelihood of success of the main suit.

IV. ARGUMENTS

The respondent's counsel was served with the application. Counsel for the respondent acknowledged receipt, but he never filed an affidavit in reply as required by law.

The application as a consequence proceeded ex parte. It, therefore, followed that the application and the affidavit evidence of the applicant stand unchallenged.

I have considered the affidavit evidence of the applicant; and it is strong enough and it proves the grounds of the application. And I have no reasons to doubt the evidence that was adduced by way of an affidavit.

Since there is no evidence to the contrary by the respondent, I hold that this is a proper and fit application where this court can safely grant the orders sought therein.

V. CONCLUSION

With the reasons given hereinabove in the arguments, an order for a temporary injunction against the respondent as prayed for in the application shall abide the results of the main suit.

Date at Kampala this 30th day of September, 2009.

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JOSEPH MURANGIRA
JUDGE