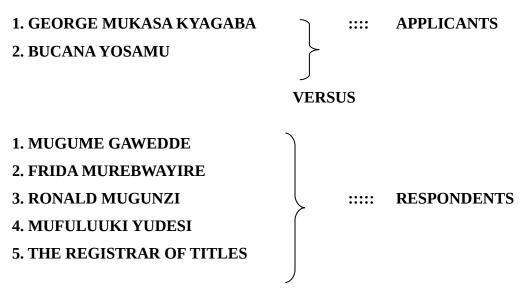
THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

(LAND DIVISION)

MISCELLANEOUS APPLICATION NO. 437 OF 2010 (Arising from Civil Suit N0.40 of 2010) (Arising out of Civil Suit No. 450 of 2008) (Arising out of Civil Suit No. 445 of 2008)



RULING BY HON. MR. JUSTICE JOSEPH MURANGIRA

I perused the applicant's application by chamber summons brought under Order 11 rules 1 and 2 of the Civil Procedure Rules and Section 98 of the Civil Procedure Act together with its supportive affidavit.

This application is seeking the following orders:-

- That HCCS N0. 450/2008: Bucana Yosamu Vs Frida Murebwayire & Anor, HCCS N0.40/2010: George Mukasa Kyagaba Vs Mugume Gawede & 3 others, and HCCS N0.445/2008: Frida Murebwayire & Anor vs Yosamu Bucana & 2 ors be consolidated.
- 2. That the further proceedings in HCCS N0.40/2010: George Mukasa Kyagaba Vs Mugume Gawedde & 3 others, be stayed until Court has pronounced itself on HCCS N0.450/2008: Bucana Yosamu vs Frida Murebwayire & Anor and HCCS N0.445/2008: Firda Murebwayire & Anor vs Yosamu Bucana and 2 others
- 3. That costs for and incidental to the application be provided for.

On the 14th September, 2010 when this application came up for hearing, the applicants

were granted an order to proceed exparte. Indeed that meant that this application stands

unopposed by the respondents. It ought to succeed. In the case of Samwiri Massa vs

Rose Acen (1978) HCB 297 it was held that:

"Where certain facts are sworn to in an affidavit, the burden to

deny them is on the other party and if he does not they are

presumed to have been accepted."

This authority supports this application, whereby the respondents despite service on them

the court process they opted to keep quiet. It is therefore, presumed that the facts deponed

to in the said affidavit in support of the application were accepted by the respondents.

Further, I have also read and considered the written submissions by Counsel for the

applicants and they support this application. In fact, I have no genuine reasons and

grounds on which I would base myself to deny the grant of this application. The

application is not opposed; it should be allowed.

In the result and for the foregoing reasons given hereinabove, this application is allowed

in the orders sought for therein.

Costs of this application shall be met by the applicants.

Dated at Kampala this 24th September, 2010.

sgd

MURANGIRA JOSEPH

JUDGE