

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MUKONO
MISCELLANEOUS APPLICATION NO.121 OF 2023
ARISING FROM CIVIL SUIT NO.034 OF 2021

BYAMUKAMA JOVENNA:::::::::::::::::::::::::APPLICANT

VERSUS

1.SEBAMBULIDDE HARUNA

**2.NANSUBUGA SARAH & EMILLY NABATANZI (Administrators of
the estate of the late Nsubuga Luki)**

3.MASABA GABUDYELO

4.NKWAGA MUSOKE ROBERT

5.NALUNGA BIRIGENDA

6.PETER SEMANDA BIRIGENDA

7.WASSWA GEOFREY

8.MUGANGA LAMECK

9.KANOONYA ISMA

10.COMMISSIONER FOR LAND

REGISTRATION:::::::::::::::::::::::::RESPONDENTS.

BEFORE: HON.LADY JUSTICE JAQUELINE MWONDHA

RULING

This was an application brought before me by the applicant's
Counsel M/s JP Baingana & Associated Advocates. It was brought

Mwondha

under 0.9 r 23 and order 52 r 1& 3 of the CPR and Section 98 of the CPA. It sought for orders as follows;

1. The order dismissing Civil Suit No. 034 of 2021 to be set aside.
2. That the order reinstating Civil Suit No.034 of 2021 to be heard and determined on its merits.
3. Costs to be provided.

The application was supported by the affidavit of the applicant Byamukama Jovenna, the applicant's grounds briefly are;

1. The cause of the action is fraud and orelugulaities on the land which ought to be disposed on its merits.
2. That the applicant's Advocate appeared at Court in time when the case was due to be heard but his entry was delayed by the security detail of the Judges.
3. That the applicant is still interested in pursuing his right to property as Administrator of the estate of the late Especto Ssenyigo.
4. That when the applicant's Advocate appeared to the Judge's chambers minutes after 9:00 am when the trial/Resident Judge was starting to read the ruling.
5. The applicant was sealed in another chambers upstairs.
6. It's in the interest of Justice that the order dismissing the main suit is set aside and the reinstated and heard on its merit.

In such matters there are three major issues to consider that is;

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1. Whether the applicant had justifiable reason to be prevented to be in Court at the time he was required at both dismissals.
2. Whether the applicant is still interested in pursuing the dismissed suit which has a high chance of success.
3. Whether it's just, fair and in the interest of Justice that this application be granted to ends of Justice to meet.

The issues above can only be determined by evidence as per the applicant which having perused as a matter of timing.

I find that the application for setting aside the dismissal on both times;

1. Is successfully set aside.
2. Suit No.034 of 2021 be reinstated and be heard interparties.
3. Costs be considered on the main suit.
4. There seems to be a high chance of success to the applicant.



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JAQUELINE MWONDHA

JUDGE

25th September, 2023.

