

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA

HOLDEN AT JINJA

HCT-03-CV-CA-049-2022

(ARISING FROM CIVIL SUIT NO.010 OF 2015)

1. HAJJATI SAUYA WANYANA:.....APPELLANT
VERSUS

1. NANGOBI ZAINABU

2. NAISANGA SARAH:.....RESPONDENTS

Land Appeal:

Held: *The Appellant's Appeal Succeeds. The Decision/ Judgement of His Worship Okumu Jude Muwone Chief Magistrate of the Chief Magistrate's Court of Kamuli, delivered on the 19th of May 2022 is hereby quashed and set aside. It has no legal effect from the date of reading of this Judgement and it is replaced by this Judgment.*

BEFORE: HON. JUSTICE DR. WINIFRED N NABISINDE

JUDGMENT ON APPEAL

The Appellant being dissatisfied and aggrieved by the decision/ Judgement of His Worship Okumu Jude Muwone Chief Magistrate of the Chief Magistrate's Court of Kamuli, delivered on the 19th of May 2022, appealed to this Honorable Court against the whole decision/ Judgement and orders on the following ground: -

1. That the Learned Trial Magistrate erred in law when he failed to hold that the suit land did not form part of the Estate of the Late Musenze Ngobi or Kabogoza Adonia.

They prayed that:-

- a) The Judgement and Orders of the Chief Magistrate Court in **Civil Suit No.10 of 2015** be set aside.
- b) This Appeal be allowed with costs to the Appellant in the Chief Magistrate's court and the High Court.
- c) A declaration that the suit land did not form part of the Estate of the Late Musenze Ngobi or Kabogoza Adonia.
- d) Any other reliefs this court may deem fit.

THE BACKGROUND

The brief facts according to learned counsel for the Appellant is that the Appellant is the sole surviving child and direct beneficiary to the Estate of the Late MUSENZE NGOBI and the Respondents are her nieces. That the Respondents sued the **Appellant in Civil Suit No.10 of 2015** for revocation of Letters of Administration issued to her vide **AC No.45 of 2011** among others. In her defence thereto, she intimated to the court that their father the Late Musenze Ngobi died intestate and her brother who was also his only son and heir, the Late Kabogoza Adonia Lubandi, sold off the said land to a one Mugude Yokayasi. That in 1950's she bought back the said land together with her sister Naisanga Alima in their own right after it had been sold by their brother.

Further, that when the matter came up for hearing, the Appellant was too ill and frail due to her old age and she never personally attended court and the evidence of sale and purchase of the said land was never submitted though all her defence witnesses notified court of the facts. That the Learned Trial Magistrate entered Judgement in favour of the Respondent revoking the Letters of Administration that had been issued to the Appellant but the court didn't determine the question of ownership of the suit land which was also an issue at the trial court, thus the instant Appeal.

On the other hand, the background according to learned Counsel for the Respondents is that the Late Musenze Ngobi died intestate in 1962 and he was survived by two children namely Kabogoza Adonia Lubandi and the Appellant. That Kabogoza Adonia Lubandi was the heir to Musenze Ngobi who also died intestate in 1994 after which the Appellant inherited the property of the Late Musenze Ngobi. That the family of Kabogoza headed by a widow Magoba Joyce were staying on the Estate of the Late Musenze Ngobi for agriculture and had residential developments on the land without any challenges.

That after the death of Kabogoza Adonia, the clan members started to grab the estate of the Late Musenze which forced the widow, the mother of the Respondents, Joyce Magoba to file **CS No.19/1993** and Judgement was in their favor, however before Judgment was delivered, the widow of the Late Kabogoza Adonia passed on leaving the Respondents and their siblings as orphans and the Appellant after the said Judgement started denying the children of the Late Kabogoza ownership to the estate of both the Late Musenze Ngobi and Kabogoza Adonia. The 1st Respondent is the Administratrix to the Estate of Kabogoza Adonia and because the Appellant was using the grant to oppress other beneficiaries of the Estate of the Late Musenze Ngobi, the Respondents filed a suit against her and judgement was in their favour.

From my analysis, the Plaintiff's case is that the Plaintiffs/Respondents filed **Civil Administration Cause No.10 of 2015** wherein the 1st Plaintiff/Respondent is the administratrix of the Estate of the late Kabogoza Adonia Lubandi and a biological daughter of the late Kabogoza Adonia Lubandi, the 2nd Respondent is a sister to the Plaintiff/1st Respondent and also biological daughter to the late Kabogoza Adonia Lubandi and the Appellant is the administratrix of the estate of the late Musenze Ngobi and a biological sister to the late Kabogoza Adonia Lubandi.

The Plaintiffs/Respondents claim against the Appellant was for revocation of the letters of Administration granted to the Appellant vide **Administration Cause No.45 of 2011**. The late Musenze Ngobi, father to the Appellant died intestate at his home on the 26th day of January, 1926 and was survived by two children- Kabogoza Adonia Lubandi and the Appellant. Kabogoza Adonia Lubandi was the heir to the late Musenze Ngobi, but also died intestate in 1994.

The Plaintiffs/Respondents allege that it was after the death of the late Kabogoza Adonia Lubandi that the Appellant inherited the property of the late Musenze Ngobi. That the period between the time of death of the late Musenze Ngobi and the late Kabogoza Adonia Lubandi, the family of Kabogoza headed by his widow Magoba Joyce and that of the Defendant/Appellant were thriving on the estate of the late Musenze with agriculture and residential developments on his land without any conflict whatsoever. That after the death of the late Kabogoza Adonia Lubandi, the clam members started to grab piece by piece of the estate of the late Musenze and the matter was even taken to court by the widow of the late Kabogoza and the Defendant/Appellant vide **Civil Suit No.19 of 1993** and the court declared that the estate of the late belonged to the plaintiffs.

In addition, that before Judgment was passed in **Civil Suit No.19 of 1993**, the first Plaintiff/widow passed on leaving the Plaintiffs/Respondents and their sibling's orphans; and as soon as court passed Judgment in favour of the Plaintiffs, the Defendant/Appellant started to deny the children of the late Kabogoza Adonia ownership of any estate of both the deceased persons.

The Plaintiffs/Respondents even took the matter to court vide **Civil Suit No.041 of 2012** only to lose the case because of no *locus standi*. That the 1st Respondent went ahead and got Letters of Administration of the estate of the late Kabogoza Adonia Lubandi vide **Administration Cause N.0098 /2014** and attempted through their Advocates to settle the dispute between their family (siblings) and the Defendant/Appellant all in vain.

The Plaintiffs /Respondents alleged that the Defendant/Appellant through her agents has dealt with fraudulently with the estate of the deceased persons who used the grant of the Letters of Administration to oppress other lawful beneficiaries of the estate of the late Kabogoza whose estate in essence is substantially the estate of the late Musenze. That the Defendant/Appellant has sold off most of the estate to over 10 persons who are now developing permanent structures on the land to her own personal benefit despite the outcry of the Plaintiffs/Respondents and her siblings and several attempts to legal aid intervention in this dispute.

That the Defendant/Appellant had willfully and without unreasonable cause omitted to exhibit an inventory of the estate as required by the law and is still intent on selling off the remaining portion of the estate.

- a) The Plaintiffs /Respondents prayed to court that the grant of the revoked Letters be granted to the Defendant/Appellant;
- b) A declaration that the Plaintiffs/Respondents and other beneficiaries of the Defendant/ Appellant are entitled to their respective shares in the estate as enshrined in the succession laws of Uganda;
- c) An order to surrender to court the Letters of Administration granted to the Defendant/Appellant; and order for the Defendant/Appellant to file a comprehensive and true inventory of the estate of the late Musenze Ngobi and an account of all dealings with that estate;
- d) Order for the Defendant/Appellant to make good the loss occasioned to the estate of the late Kabogoza Adonia Lubandi; and
- e) A permanent injunction restraining the Defendant/Appellant and her agents from undertaking any further dealings with the estate of the late Kabogoza Adonia Lubandi.

Defendant's case

In reply, the Defendant/Appellant contended that save for the 1st Respondent/Plaintiff being administrator of the estate of the late Kabogoza Lubandi Adonia, which estate does not include the instant suit land. The Defendant/Appellant further contended that the said Letters of Administration were applied for and acquired mistakenly as the current suit land was not part of the estate of Musenze Ngobi by the time the Defendant/Appellant acquired Letters of Administration the Defendant/Appellant had bought the suit land in her own right. That the late Musenze Ngobi died intestate, survived by nine (9) children and two wives. That his only son late Kabogoza Lubandi Adonia was made heir and he sold off the suit land and relocated to Buikwe.

In further reply, the Defendant/Appellant contended that a clan meeting was called on her request and another sister, Naisanga Halima to discuss the issue of dealing the suit land as efforts to resolve the matter with the late Kabogoza had proved futile, it was decided that, the purchaser be refunded his money which the Defendant/Appellant did, and took back the suit land as hence her own in the 1950s.

That the Defendant/Appellant has been in occupation of the suit land since then, a permanent house, store for foodstuffs for sale was constructed on the suit land and cultivation of food crops carried out on the said suit land and there were no disturbances whatsoever or anyone claiming the suit land. That in or about 1993, after the death of the late Kabogoza, clan members led by the Defendant/Appellant's sister ,Itronsi Ngenda started claiming part of the land, the Defendant/Appellant sued the said Itronsi and the matter was decided in the Defendant/ Appellant's favour.

That the Defendant/Appellant has on many occasions tried to sit down with the Plaintiffs/Respondents so as to give them a share of her land in her own right but all in vain.

She further averred that she is the owner of the suit land and that it does not form part of the estate left by the late Adonia Kabogoza, the father of the Respondents, having sold off the suit land and used up the money alone; and that even during handover of the said land to the Defendant/Appellant, there was no objection from either of the Plaintiffs/Respondents.

REPRESENTATION

When this matter came before me for hearing, the Appellant was represented by learned Counsel Mr. Nsanja of M/S. R. Nsubuga & Co. Advocates, while the Respondent was represented by M/S. SMAK Advocates. Both sides were directed by Court to file Written Submissions and they each complied.

THE LAW

It is now settled law that it is the duty of the Plaintiff to prove his or her case on the balance of probabilities. In relation to the onus of proof in civil matters, the burden of proof lies on he who alleges a fact and the standard is on the balance of probabilities, and not beyond reasonable doubt as in criminal case. It is provided for in **Sections 101, 102, and 104 Evidence Act** and is discharged on the balance of probabilities. The standard of proof is made if the preposition is more likely to be true than not true.

The standard of proof is satisfied if there is greater than 50% that the proposition is true and not 100%. As per Lord Denning in ***Miller v Minister of Pension [1947] ALLER 373***; he simply described it as ‘more probable than not.’ This means that errors, omission and irregularities that do not occasion a miscarriage of justice are too minor to prompt the appellate court to overturn a lower court decision. See ***Festo Androa & Anor vs Uganda SCCA 1/1998***.

It is also the position of the law that in the proof of cases, unless it is required by law, no particular form of evidence (documentary or oral) is required and no particular number of witnesses is required to prove a fact or evidence as per **Section 58 Evidence Act and Section 33 Evidence Act**. A fact under evidence Act means and includes: -

- (i) Anything, state of thing, or relation of thing capable of being perceived by senses as per **Section 2 1(e) (i) Evidence Act**.

On the duty of the first appellant court, the first appellate Court is mandated to subject the proceedings and Judgment of the lower Court to fresh scrutiny and if necessary make its own findings. ***Bogere Charles vs Uganda, Criminal Appeal No. 10 of 1996***, where Supreme Court held that “*The appellant is entitled to have the first appellate Court's own consideration and views of the evidence as a whole and its own decision thereon. The first appellate Court has a duty to rehear the case and reconsider the materials before the trial Judge. Thereafter, the first appellate Court must make its own conclusion, but bearing in mind the fact that it did not see the witnesses. If the question turns on demeanor and manner of witnesses, the first appellate Court must be guided by the trial Judge's impression.*”

This being the first appellant court, it is duty bound to evaluate evidence and arrive on its own conclusion, bearing in mind that it did not have benefit of the observing the demeanor of the witnesses. The duty of the first appellate court is to re-evaluate, assess and scrutinize the evidence on the record. This duty was well stated in ***Selle vs. Associated Motor Boat Co. [1968] E.A 123*** and followed in ***Sanyu Lwanga Musoke vs. Galiwango, S.C Civ. Appeal No.48 of 1995***; ***Banco Arabe Espanol vs. Bank of Uganda S.C.C. Appeal No.8 of 1998***.

A failure to re-evaluate the evidence of the lower court record is an error in law. The appellate court has a duty to re-evaluate the evidence as a whole and subject to a fresh scrutiny and reach its own conclusion. ***See Muwonge Peter vs Musonge Moses Musa CACA 77; Charles Bitwire vs Uganda SCCA 23/95; Kifamunte Henry vs Uganda SCCA No. 10/1997***.

It is also trite law that the appellate court can only interfere and alter the findings of the trial court in instances where misdirection to law or fact or an error by the lower court goes to the root of the matter and occasioned a miscarriage of justice. ***See Kifamunte Henry vs Uganda SCCA No. 10/1997.***

Having satisfied myself and taken due recognition of the Law and rules of evidence applicable to a first appellate court, I will now turn to the substantive matters as raised in the Memorandum of Appeal and proceed to re-evaluate the evidence on record.

RESOLUTION OF THE APPEAL

The Learned Trial Magistrate erred in law when he failed to hold that the suit land did not form part of the Estate of the Late Musenze Ngobi or Kabogoza Adonia.

In resolving the sole ground in this Appeal, I have carefully examined the typed and certified record of proceedings and Judgment of the lower court as availed to and taken into account the submissions of both learned counsel.

It was submitted by learned counsel for the Appellant that the learned Trial Magistrate misdirected himself and failed to evaluate the evidence that had been presented to him when he failed to resolve the question of ownership of the suit land. That it was the appellant's defense in the lower Court that the Late Musenze Ngobi had died intestate and after his death, her late brother Kabogoza Adonia sold the said land to a one Mugude Yokoyasi. That the Appellant and her sister Naisanga reclaimed back the land in their own right.

That the trial court simply resolved the issue of just cause for revocation of the Letters of Administration that had been issued to the Appellant as the Administrator to the Estate of the Late Musenze Ngobi but did not consider the evidence presented of ownership of the suit land as to whether the same was part of the Estate of the Late Musenze Ngobi or not.

Further, that it was the evidence of **DW3** Nambi Jennifer the sister to the Respondents that their father the Late Adonia Kabogoza had sold he suit land to Mugude Yokoyasi at **lines 15 and 18 at page 36 and page 37 of the Record of Appeal.**

Again, that the evidence at the locus in quo at **page 40 of the Record of appeal** further revealed that the Appellant alone was in possession of the suit land and not the Respondents. That the Appellant filed in this Honourable Court an Application to admit additional evidence on the sale and purchase agreement when she bought the land and the Application was granted.

They therefore submitted that Counsel for the Respondent was able to cross - examine the Appellant on the sale and purchase agreement which evidence was admitted on the Record for consideration in this appeal. That the Appellant's evidence was admitted as **APP W1**. And she exhibited the sale agreement dated 20/07/1951 and its English translation.

That through **the cross examination and re-examination**, the Appellant testified to Court that after the brother had sold the suit land as the heir, she reclaimed it in her person right together with her late sister Naisanga Alima. The Appellant further confirmed to court that when she was buying back the land, Adonia Kabogoza was also present but did not make any contribution toward the purchase of the same. The Appellant further confirmed the persons who were present during the purchase of the said land such as Ngobi Perez, Nandase Faisi, Alitulonsi.

In addition, that Appellant confirmed to Court that she was willing to have all the children including her nieces i.e. the Respondents utilize the same on condition that they requested her. That the Appellant during cross -examination further confirmed that the Late Adonia as buried on the land after he had sought her forgiveness but this did not create any right of ownership in the land to Adonia as the land belonged to the Appellant and her late sister when they bought it back.

They then urged the court that the question for determination in this appeal is whether when the Appellant reclaimed the said land, she reclaimed the same on behalf of the estate of the Late Musenze Ngobi or in her own capacity for the same to constitute property of the Estate of the Late Musenze Ngobi.

That it was the evidence of the Appellant during the hearing of the appeal that she bought back the land from Mugude Yokoyasi, and an agreement to the same was tendered. She also confirmed to Court that all children of the late could utilize the same on condition that they sought the permission to utilize the same from her. This is a clear indication that this land personally belongs to the

Appellant and is not part of the Estate of the Late Adonia Kabogoza or Musenze Ngobi.

That on a perusal of the record of appeal, the evidence in the lower Court and Judgment of the lower Court, the trial judge did not address himself to issue of ownership of the suit land and is thus faulted for his failure to evaluate the evidence as a whole and determination of the impending issue as was raised by the Appellant in her defense in the lower Court.

It was counsel's submission for the Appellant that the learned Trial Magistrate erred in law and fact when he did not consider and evaluate the evidence by the appellant that in the 1950s she bought back the land that had been sold by the Late Adonia Kabogoza from Mugude Yokoyasi. That therefore having purchased the property back in her own right, the property ceased being part of the estate of the Late Musenze Ngobi and therefore, there was no property to administer in the estate of the late Musenze Ngobi.

That the Learned Trial Magistrate is thus faulted for his failure to evaluate the evidence presented thus arriving at a wrong conclusion concerning the ownership of the suit land; and prayed that this appeal is allowed with the prayers sought as follows;

- a) A declaration that the suit land did not form part of the Estate of the Late Musenze Ngobi or Kabogoza Adonia.
- b) The judgment and orders of the Magistrate's Court in **Civil Suit No. 10 of 2015** concerning ownership of the suit land be set aside.

In reply, it was submitted by learned Counsel for the Respondents that the Respondents are children of the late Kabogoza Adonia who was a son to the late Musenze Ngobi and the appellant is a daughter to the late Musenze Ngobi and she was the administratrix of the estate of the late Musenze Ngobi before the said Letters of Administration were revoked by the trial court.

That the trial Chief Magistrate rightly held that all the parties to the suit are beneficiaries to the estate of the late Musenze Ngobi and revoked the Letters of Administration granted to the appellant vide **Administration Cause No. 45 of 2011** in respect of the estate of the late Musenze Ngobi and advised the beneficiaries to the estate of the late Musenze Ngobi to pursue the legal channel and apply for fresh letters of administration in respect to the estate on **Pages 7 and 8 of the judgment.**

That the contention of counsel for the appellant in the memorandum of appeal that the suit land did not form part of the estate of the late Musenze Ngobi or Kabogoza Adonia is self-defeating as the same is property of the late Musenze Ngobi to which all his beneficiaries are entitled to share from the same.

That the Appellant was represented by her lawful attorney Nabaggala Rehema who is also her daughter and she testified as **DW1**. The said Nabaggala Rehema testified in court on 28th/9/2020 and the power of attorney was admitted as **Dexh.1**. The Appellant also applied for letters of administration in respect of the estate of the late Musenze Ngobi and the same were granted to her and admitted in court as **Dexh.2**. While applying for the said letters of administration, the Appellant included the suit land she claims to be hers as part of the estate of the late Musenze Ngobi. She also told court that Adonia Kabogoza died in 1982 and was buried on the suit land and one of Adonia's wife also died and she was buried on the suit land.

She further told court that the suit land is part of the estate of the late Musenze Ngobi. **Pages 25, 26 and 27 of the record of proceedings.**

They submitted that the said letters of administration have never been amended and, or the appellant has never applied to court which granted her the letters of administration to have the suit land excluded from the estate of the late Musenze Ngobi.

Further, that the Appellant's attorney who is also her daughter above 58 years told court **on page 27 of the record of proceedings** that the Appellant's father was Musenze Ngobi and the appellant obtained Letters of Administration in respect of her father's estate and that the suit land forms part of the estate of the late Musenze Ngobi to which the Appellant obtained Letters of Administration. It means that she is aware that the same is property of her grandfather the late Musenze Ngobi and not property of her mother the appellant.

That **DW3-Nambi Jennifer** told court that her father the late Kabogoza Adonia had four girls Waisanje Sarah Night, Nambi Jenifer (herself), Nangobi Zainabu and Allen Wanyana and that Allen Wanyana died in 1977 and she was buried on the suit land. Musenze Ngobi was her grandfather and had one son Kabogoza Adonia and that the plaintiffs are entitled to a share from the suit land. She further told court that the Appellant applied for letters of Administration in respect of the estate of the late Musenze Ngobi and included the suit land as part of the estate of the late Musenze Ngobi. That the Appellant reclaimed the suit land from Mugude Yokoyasi on behalf of the family of the late Kabogoza Rubandi

and they have never received the share of their father. Pages 34, 35 and 36 of the record of proceedings.

In addition, that after the Appellant filing this appeal in this Honorable Court, she filed **Miscellaneous Application No.40 of 2023 (Arising from Civil Appeal No.49 of 2022) vide Hajjati Sawuya Wanyana vs Nangobi Zainabu and Another** seeking for leave to adduce additional evidence on appeal and court granted the appellant such leave. That the appellant testified herself in court and she testified as Appellant Witness No.1 of the 12th day of April 2023.

The Appellant told court that she bought the suit land from Mugude Yokoyasi and that she stays on the suit land with the respondents who are children of her brother the late Kabogaza Adonia and they are all using the suit land. Kabogaza Adonia was buried on the suit land and his children are also supposed to get a share from the suit land. She further told court that she is the administratrix of the estate of the late Musenze Ngobi her father and that the suit land forms part of the estate of the late Musenze Ngobi. All the siblings of the late Musenze Ngobi are entitled to a share from the estate of the late Musenze Ngobi. The suit land is for her father the late Musenze Ngobi and she bought the same from Mugude for herself and the entire family of Musenze Ngobi and wanted the land to be for all the children of the late Musenze Ngobi. She confirmed the same during re-examination that the suit land forms the estate of the late Musenze Ngobi.

That the appellant herself admitted that the suit land forms part of the estate of the late Musenze Ngobi and that all the children of her late father are entitled to a share from the same, it is therefore not necessary to examine the contents of the agreement dated 20th/07/1951 which she did not even sign. It is therefore crystal clear that the suit land forms part of the estate of the late Musenze Ngobi and the respondents as children of the late Kabogaza Adoni who was a son and heir to the late Musenze Ngobi are entitled to a share of their late father from the estate.

They relied on **Order 13 rule 6 of the Civil Procedure Rules** which provides that *“any party may at any stage of a suit where an admission of facts has been made either on the pleadings or otherwise, apply to the court for such judgment or order as upon the admission he or she may be entitled to without waiting for the determination of any other questions between the parties.”*

Further, that **Section 57 of the Evidence Act** provides that facts admitted need not to be proved. Therefore, since the appellant admitted it clearly that the suit land is property of the late Musenze Ngobi and while applying for letters of administration included the suit land as part of the estate of the late Musenze

Ngobi, the contention that it does not form part of the estate of the late Musenze Ngobi is self – defeating and it is also clear that all the beneficiaries of the late Musenze Ngobi are entitled to a share from the estate.

They submitted that the net effect of this and all the above is that this ground of this appeal should fail and the entire appeal be dismissed with costs to the respondents.

In order to resolve this ground, I have first summarized the evidence of both sides as led before the trial Court. It is clear from the record that although a number of Witness Statements had been filed by both sides, some witnesses were reported to have died before hearing and others never turned up to testify. I have ignored their Witness Statements since they never testified in court and only based my decision on those who testified in court.

Agreed facts

Before the lower court, the following were admitted as agreed facts:-

- Land in issue originally belonged to Musenze Ngobi.
- Jurisdiction.
- Musenze Ngobi, father to the Defendant and grandfather to the Plaintiffs.

Disagreed Facts

- Ownership.
- Current possession (both parties claim possession).
- Court also advised counsel to Plaintiffs to quantify what they meant by portion as their claim.

The following are the issues that were agreed upon to be resolved in this matter before the lower court:-

1. Whether the Plaintiffs are entitled to the share in the suit land/
2. What remedies are available to the parties?

The Plaintiff's 1st witness was **Nangobi Zainabu, a female adult aged 46 years of Bulangira Zone, Busota Parish, Southern Division, Kamuli District (herein after referred to as PW1)**. Her evidence in chief is captured in her Witness Statement and she testified that she is a daughter of the late Kabogoza Lubandi Adonia. That she is claiming a portion of land that was due to their father the late Kabogoza Lubandi Adonia.

That her father was the son and heir to his late father (her grandfather) Musenze Ngobi and a brother to the defendant and her other aunt, the late Hajjati Halima Naissanga. That her father was a bus driver, he thus left them in the care of their aunt, the late Hajjati Halima Naisanga until 1983 when she died. That her late aunt built the permanent buildings on the suit land and together they continued in occupation of the suit land.

That when her aunt died, her father came home for burial together with her mother; and after the burial they all continued to live on the land. The Appellant also came back after her marriage and failed and continued living with them until 1993 when her father died. At the time of his death the suit land had not been divided, sold off or leased or dealt with in any other way and are in occupation of it. After his death, some clan members started grabbing portions of the suit land and sold a portion of it. That culminated into **Civil Suit No.19 of 1993** that was filed jointly by the Appellant and her mother the late Joyce Magoba.

That Judgment was delivered in their favour albeit the first Plaintiff then, her late father and then the Appellant and her mother as a result of her late father's death. That her late father, aunt have all been buried on the suit land. That even after her late father and mother's death, she continued in occupation of the suit land until 2012 when she was shocked to receive a letter from the Appellant asking her to vacate the land on grounds that her license had expired. That she reported the matter to their clan leader who failed to handle the matter as all letters addressed to the Appellant to attend a family meeting were in vain. That she reported the matter to FIDA, but still the Appellant remained adamant hence filling the **Civil Suit No.10 of 2015**.

During cross examination, PW1 answered that she was 48 years old and confirmed that the statement was hers and that the Defendant was her paternal aunt from Busota, Southern Division, Kamuli District. She did not know the size of the land, but confirmed that it originally belonged to Musenze Ngobi.

PW1 also confirmed that her father was a bus driver from Kamuli-Jinja also Soroti-Mbale etc.; and that she was not around in 1975. She was not aware if her father participated in World War, but did not dispute because she had heard of it.

She also confirmed that her father had a house at Namyenze, in Njeru Town Council, a semi-permanent house and it was about 1978. That the house was sold they them as Plaintiffs and one Nambi Jennifer who is her older sister of the same father but younger than Plaintiff No. 2 and she is currently in Mbale for 18 years.

That the late Musenze had 6 children namely Adonia Kabogoza, Defendant, Halima Naisanga, Rose Higonza and Nandese Kwakyeri and that the 5 died already and its only 1 the defendant who is alive. **PW1** did not know how long she had stayed at Kabuki.

She added that it's not true that in 1978, she was not staying in Namyenze and she has never stated that completely. That they as a family, they authorized themselves and sold because they had intended, that they had already seen the house before they sold. She admitted that her mother stayed there with her father but after some time, she left in 1992.

That in 1926 and its indicated in the grave, she also admitted that her father left some establishment on the suit land, a store (permanent) building, but she did not know when her father constructed the permanent store.

That Hajjati Halima stayed on the suit land before she died and she also left some establishment- a permanent house and kitchen (block). That there was also a semi-permanent house of 8 rooms build, fell down already; and she never saw her father construct the store because it was done by the time she was born. That it's not true that in 1970s, herself and Bogere used to visit Hajjati Halima to sell pancakes. That she used to sell pancakes in 1977 and was staying at home in the suit land and the pancakes were for Hajjati Halima.

Further, that her father never left a will, the heir was got after his death and Isabirye Silas was a clan heir, they had a meeting and he was appointed heir.

That she lives in Busota since 1988, and that the people who died left children i.e. Adonia Kabogoza, the rest did not have children at all. That it's true they even had conflicts with the Defendant and matter was handled by clan heads and disposed of, the clan head was Daki Alajab and that there is a letter to show that Hajjat Defendant was summoned to attend the meeting.

PW1 admitted that her father was heir to Musenze Ngobi, and he has never filed an inventory. That its true **PW1** applied for Letters of Administration of her

father's estate, that they sat as a clan meeting as children of her late father and they were selected as the heir and the heir got ID, death certificate and they went to UWONET and the Application is on file and they were sent to Jinja.

It was brought to attention of Court that the suit land was sold and construction has begun, that the matter was reported to Police and they also wrote to the Defendant to restrain them from further interference of the land [Court advised both parties to visit the *locus in quo* and ascertain the current status on the land]

Further, that **PW1** was not a clan leader, it was counsel's error and that she was not around when her late aunt was building the permanent houses. That her aunt and her father said it's her aunt who constructed the houses. That **PW1** did not know if there was nothing on the suit land before the houses were constructed. That her father had a plot at Nakibizzi where he was staying with her mother before the construction of the houses. That the Defendant came from Nyenga where she was married and they used to visit her, she had last visited her in 1982.

That Sebastian Bedamira (her cousin brother), Augustine Makoma and John Bogere are the clan members that sold part of the suit land to Tom Yovan Kagembe in 1992, she was not present when they were selling part of the land and they sold 20ft by 100ft. That before the sale, the entire land was about 6 acres, but she was not sure of the acreage.

That the land suit in 19/19/1993 was determined in favour of the Defendant; she did not know if her father had Letters of Administration to administer her grandfather's estate. She confirmed that the Defendant had a share of her the estate of her late father and also confirmed that her father had land in Namwesi, and that she did not stay there because she was staying with her aunt Halima.

PW1 did not know Mugude Yokoyasi; and she confirmed that she had the letter the Defendant wrote to her to vacate the suit land, that two letters were written summoning them for a clan meeting one is 20/03/2012 and she had forgotten the other date.

In reexamination, PW1 responded that she is Nangobi Zainabu and lived at Kabukye Town Council with her aunt. That she did not know what was on the land before the houses were constructed by her aunt. That the matter of 1993 was filed because after the death of their father the clan members started selling the land saying they were only girl children. That at the time of her father's death,

the land had not been divided among them. Her mother died in 1994 after the 1993 has been instituted. She added that her father had a right over the land which was in dispute in 1993, and that she was staying with her aunt because her father was a bus driver and used to move a lot.

The Plaintiff's 2nd witness was **Naisanga Sarah, a female adult aged 53 years a resident of Bukhobo Zone, Ntayiighirwa Parish, Ighumbya Sub-County, Luuka District (herein after referred to as PW2)**. Her evidence in chief is captured in her Witness Statement and she testified that she is the second Respondent and one of the children to the Late Kabogoza Lubandi Adonia.

That the Appellant is her aunt and she holds no grudge with her. That she is claiming a portion of the land that was due to her father the Late Kabogoza Lubandi Adonia. That her father was the son and heir to his late father (her grandfather) Musenze Ngobi and a brother to the Appellant and her other aunt the late Hajjati Halima Naisanga. That her father was a bus driver. He thus left them in the care of our aunt, the late Hajjat Halima Naisanga until 1983 when she died. That he late aunt built the permanent buildings on the suit land. Together they continued in occupation of the suit land. When her aunty died, her father came home for burial together with her mother. That after the burial, they all continued to use the land. The 1st Respondent, her late father and mother and the Appellant however lived on the land. That the Appellant also came back after her marriage had failed and continued to living with then until 1993 when her father died.

Further, that at the time of his death the suit land had not been divided, sold off or leased or dealt with in any other way and that were in occupation of it. After his death, some clam members started grabbing a portion of the suit land and even sold a portion of it. That this culminated into **Civil Suit No.19 of 1993** that was filed jointly by the Appellant and her mother the late Joyce Magoba. Judgment was delivered in their favour albeit the first plaintiff then, her late mother had already died at the time of delivering Judgment.

That she as one of the witnesses in **Civil Suit No.19 of 1993** in which she testified that the suit land initially belonged to her grandfather and later devolved to her late father and then to the Appellant and her mother as a result of her late father's death. That her late father, mother, aunt were all buried on the suit land. That after her late father and mother's death, they continued in occupation of the suit land albeit she was married in Luuka until 2012 when she shocked to hear that the first plaintiff had received a letter from the defendant asking her to

vacate the land on grounds that her license to stay on the land had expired. That she filed this suit to recover what is due to her late father.

During cross examination by counsel Annet, PW2 answered that she was born in 1966, and that the 2nd paragraph of her witness statement was an error. That she knew the suit land, it is at Kabukye Trading Centre, did not know how big it is but knew its extent.

That the suit land is for Lubandi Adoniah Kabogoza, and he got it from his father Ngobi Musenze who had 7 children. That Ngobi did not give any of his land to his children, and her aunts used to say the land belongs to Kabogoza and Kabogoza was buried on the same land, other people were also buried on the suit land, and that not everybody buried on it owned it.

That the Defendant is one of late Nangobi's children and she confirmed that she is entitled to a share of her father's estate. That Ngobi Musenze was her grandfather, but she did not see him. That her father had a plot of land in Namweze. That they sold the plot in Namwenze and on the suit land, their mother stayed on the suit land that it's only their father she lived in Namwenze and would come with mum for a while and go back. That their mother, father and aunt all lived on the suit land. She did not know if her father built on the suit land because by the time she grew up, the houses were already built; that it's her aunt Halima who built the main house and kitchen, and that she knows it because Aunt Halima told her.

Further, that the Defendant never demanded a share of the plot the plot on Nyamwezi; that she says the land belonged to their father because himself and her aunts used to say so. That her father had no Letters of Administration to the estate of his father and that he died intestate.

That Nangobi Zainabu is the administrator to their father's estate, she got Letters of Administration, but she has nothing to administer because the Defendant because the Defendant chased her. That **PW2** stays in Busota, it's the Defendant staying on the suit land that **PW2** is also in Possession of the suit land and digs on the land; that the Defendant does not cultivate the land but her daughter does.

That the clan leaders sold part of the suit land, her uncle Mukoma and cousin Bogere and Sabbath; the Defendant also sold part of the land. That initially,

Sawuya was not among those who sold the suit land, the Defendant and her daughter are the ones in possession of the suit land.

In cross examination by Counsel Phoebe, PW2 responded that her father inherited the suit land, that her grandfather had 7 children namely-Nmaugaya Aisa, Naisanga Alifrose, Kyakuwaiyre Getu, Lubandi Adonojah Kabokogo, Wnayana Sauya and Halima Naisanga.

That her father used to cultivate the suit land, her aunt Halima Naisanga also used the suit land. That the Defendant is not using the suit land because she is sick, and that her father bought the land in Namwezi.

The Plaintiff's 3rd witness was **Isabirye Sirasi, a male adult aged 40 years of Kabukye in Kitayunjwa Sub County, Kamuli District (herein after referred to as PW3)**. His evidence in chief is captured in her Witness Statement and she testified that the plaintiffs are children to late Kabogoza Lubandi Adonia whose heir he is. He is the clan mate to both the Appellant and the Respondents. That he holds no grudge with any of the parties. That he was in court to give evidence about the matter in court.

That he started to know about the suit land when Hajjati Halima, the Appellant's sister and the Respondents (late aunt) who was then head of welfare was still alive. That she was also living on the suit land with the plaintiff's since she didn't have children of her own. Meanwhile, the Respondents late father was a bus driver and the Appellant was married then and living with her husband.

That she knew the late Kabogoza, the Respondents father as his clan brother. That when after his funeral, the clan installed him as his heir. Among the things he left behind upon his death were; 3 children, the Respondents inclusive and a one Nambi Jennifer, land with a house therein and a widow who later died, a one Joyce Magoba. The land he left had 3 houses, the main house, a kitchen and a store. The Appellant was also left in his care upon her brother's death as she was also living on the suit land at the time of her brother's death.

That in or around 1993, when the plaintiff's father died, some clan members sought to grab land from the defendants and the plaintiffs plus their mother. Civil Suit was instituted vide **Civil Suit NO.19/1993** by the Appellant together with her sister-in-law (Respondent's mother) and they together with the Respondents gave evidence on behalf of the Appellant and the Respondent's mother that the land had devolved to them upon their brother and husband's death. Indeed the case was decided in favour of the Appellant. Unfortunately at

the time, the Judgment was delivered when the Respondents mother had died. Once the clan leader called a meeting requiring that a portion of the suit land was delivered, the Respondent's mother had died.

Once the clan leader called a meeting requiring that a portion of the suit land be divided among the plaintiff's (children of the deceased). However, the defendant refused claiming the plaintiffs are not related to her. That he saw Migudde Yokoyasi with his own eyes, it has never crossed anyone's lips to say that Mugudde had ever bought land in the clan of Igaga. That he was actually shocked that the Appellant has since sold off portions of the suit land and divided some among her own children claiming it is her own personal land and the plaintiffs are not entitled to anything.

That he is further mortified that the Appellant has the audacity to lie that she bought the land in the 1950s.

During cross examination, PW3 answered that he was 40 years old and did not remember how old he was in 2017, and that he did not make the witness statement in 2016; that he confirmed he wrote his name. Court admitted this Witness Statement despite the irregularities in the years reflected on it.

PW3 further agreed that he was not an immediate neighbor but the land is clan land so all of them in that area are of Base Igaga clan. That the Defendant has sold land as she stated in paragraph 11 of his Witness Statement and that what he meant when he said that the land has never been sold is that Kabogoza never sold any land. He knew Mugude Yokoyasi, but that he died in a year he cannot recall, that it's not true that Kabogoza sold his land to Mugude Yokoyasi and used the proceeds to buy land in Nyamwezi and no such information came up during the funeral; that they did not mention that Kabogoza had land in Nyamwezi. That the Plaintiffs never told him that they sold land in Nyamwezi because there was no land there. That Kabogoza had 3 children-Nangobi Zainabu, Sarah Wanyana and Nisanga, he did not know Jenipher but knew Nambi as a child of Kabogoza. That it's a mistake, the children were Nangobi Zainabu, Sarah Wanyana, Naisanga and Nambi; and that Nambi is also a party to this suit.

That he did not get to know that the Defendant was in occupation of the suit land at the time of Kabogoza's death after compensating Yokoyasi; that he did not now Sowali Mugoya, then he clarified that Sowali Mugoya is Nangobi Zainabu's husband and that they never stayed at Ibulanku. That Sowali

Mugoya's home is at Busota. That he has never heard that Nangobi Zainabu's father in law was murdered and that forced her and her husband to shift from Ibulanku to Busota. That he has never heard that Kabogoza bought land for Nangobi her husband in Busota. That he did not know the husband of Naisanga Sarah.

That he had the documents mentioned in paragraph 7 of his Witness Statement, the clan head called Daaki remained with them but he passed on. That the Defendant was left under his care, she had a husband called Azania Wakatama but he died in a year he can't remember. That he did not participate in Civil Suit No. 19/1993. That Hajjati Halima constructed the big house and kitchen he mentioned in paragraph 7 of his Witness Statement,, the other two houses were constructed by Kabogoza, of those, one was a store and this still exists, the other was a mud and wattle house and it got damaged. That Kabogoza told him about the houses he constructed.

In reexamination, PW3 answered that the plaintiffs are children of his cousin, Musenze was a grandfather of the Plaintiffs and late Kabogoza's estate comprised of the suit property. That Magoba the widow to late Kabogoza and mother to Nangobi Zainabu filed **Civil Suit 19/1993**, that Kabogoza had 3 children Nangobi Zainabu, Sarah and Naisanaga. He confirmed that the Defendant is in possession of the suit land.

In questions by Court, PW3 answered that the Defendant has been in possession of the suit land since 1992, that she would just visit the brother Kabogoza.

The Defence case opened with **Nabaggala Rehema a female adult aged 58 years of Kabukye, Southern Division, Kamuli District (herein after referred to as DW1)**. Her evidence in chief is captured in her Witness Statement. Her Powers of Attorney were admitted as **DE1** and the letter dated 20/4/2012 admitted as **D/D1** and that of 22/04/2012 admitted as **D/D2**.

She knew Nangobi Zainabu (the 1st Respondent) and Naisanga Sarah (the 2nd Respondent) are daughters of Adonia Kabogoza. That the Appellant is her mother, she is very sick so she gave her Powers of Attorney to represent her in the suit. That the Respondents have no cause of action against the Appellant and the suit against her should be dismissed with costs.

Further, that the Respondents sued for revocation of Letters of Administration granted to the Appellant in respect of the late Ngobi's estate and yet they have no right whatsoever on that estate. That Musenze Ngobi had 10 children in total that is 9 girls and one boy: namely Sawuya Wanyana, Halima Naissanga, Adonia Kabogoza, Gertrude Kyakuwaire, Nandase, Natalia, Wanyana, Itronsi, Namungaya Mariam.

That Musenze Ngobi owned land in Kabukye which land is the suit land in issue and the said Musenze died in 1926. That upon Musenze Ngobi's death, Adonia Kabogoza who was a brother to the Appellant and the only son among the deceased's children was appointed as the heir of Musenze Ngobi. That Adonia Kabogoza being the heir begun to care take the land after the death of Musenze Ngobi and then after sometime in 1950's he lost interest and sold the said land to Mugudde Yokayasi after his return from Second World War.

That after selling the said land, Adonia Kabogoza bought himself land at Namwezi, now in Buikwe District where he started living with his wife and children. That Adonia Kabogoza had five children that is to say, the two plaintiffs and wanyana who died, Musenze and Nambi Jennifer. That in the 1950's Hajjati Sawuya and Naisanga Halima contributed one together to buy back their father's land which had been sold to Mugudde Yekoyasi and they gave back Mugudde Yokayasi all his money plus a goat, a chicken, alcohol and the land was given back to Hajjati Sawuya who started during in her own right and not as the estate of the late Lubandi Adonia.

That Hajjat Naisanga Halima constructed two permanent houses while the third house on the land was jointly built by the Appellant and Hajjat Naisanga Halima and the two sisters lived in harmony. That Hajjati Naisanga was not survived by any child and when she died, her estate was inherited by the appellant with whom she had jointly bought the land. That after the death of Musenze Ngobi, the Appellant obtained Letters of Administration over their father's estate. That the Respondents have never stayed on the land in question, they used to stay with their father, the late Lubandi Adonia in Namwezi and have since sold the said land and are trying to fight for the land that belongs to the Appellant.

That the Appellant tried settling this matter amicably, but the Respondents were adamant. That the Respondents sued for revocation of Letters of Administration yet they do not have any rights whatsoever over the said land.

During cross examination, DW1 answered that she appears as the agent of and was very conversant with the facts of the case; that Hajjat Sawuya (Defendant) is her mother, born in 1920s. That Musenze Ngobi originally owned the suit land,

he died in 1926 and had land in Kabukye, all his land was in Kabukye. That she knew the boundary of late Musenze Ngobi's land but did not know how big it is and that Adonia Mpaibi Kabogoza was the Plaintiff's father, and heir to late Musenze and a biological brother to the Defendant.

Further, that Kabogoza never utilized the suit land, he became heir while young and caretaker Kago was the one using the land. That Kabogoza took the land from Kago when he returned from World War II in a year she had forgotten and immediately sold the land to Yokoyasi Kugula Mugudde. **DW1** was not present when he was selling. That the Defendant knew about the sale but did not support it and no sale agreement was made. That the Defendant reported a case in the clan and the clan told Kabogoza to refund the money but he said he had no money, and no document was made; that Kabogoza sold all the land to Mugudde Yokoyasi, and the sale was in the 1950s. That her mother redeemed the land at a sum of 36 Shillings which is the same amount Mugudde Yokoyasi had paid to Kabogoza.

Further, That Adonia died in 1982 from Kabukye and was buried on the suit land; at the time of his death, he had apologized to the sister (defendant). That one of Adonia's wives died and was buried on the suit land, the second is still alive. That in 1993, the Defendant litigated over the suit land with the clan members who had started selling the suit land and the Plaintiff's mother Joyce Magoba was a party to the suit.

She confirmed that in the suit, the Magistrate said that the Plaintiff said that she had *lo locus* to sue and she is not mentioned anywhere in the Judgement. That the Defendant got Letters of Administration to her father's estate in 2000s, the father was Musenze Ngobi; and that they included the suit land.

That the suit land is part of the estate of late Musenze Ngobi to which the Defendant obtained Letters of Administration. That Adonia's wife and children remained in Namweze where Adonia had land; and Adonia's wife Joyce Magoba was brought when she was ill and died on the suit land and was buried there. She confirmed that Nangobi Zainabu forcefully cultivates the suit land and has crops there.

During cross examination by counsel Amujong, she responded that the Defendant and Hajjati Naisanga Halima her sister redeemed the land from Bugulu Mukudde Yokoyasi. That in **CS No. 19/1993**. Court decided that the Defendant the suit land and handed it to her.

The second Defence witness was **Bogere Richard, born in 1966, resident of Kito, Bweyogerere, Wakiso District, a driver (herein after referred to as DW2)**. His evidence in chief is captured in her Witness Statement and he testified that the 1st Respondent is the daughter of Adonia Kabogoza and the Appellant is his grandmother, and aunt to his father the late Augustine Mwamula. That in the 1970's when she left her father's home, and started staying with her elder brother called the late John Musenze who was a neighbor of the Appellant and Hajjati Naisanga Halima. That at the time, she was staying with her late brother she was asked by the late Hajjati Naisanga to transport her pancakes to the several markets in Kamuli where she sold it.

That the 1st Respondent would once in a while come and visit the Appellant on the suit land and would even help her to count money collected from the sale of the pancakes. That the suit land belongs to the Appellant; and she had grown up seeing her on the suit land and she is still the one in occupation. That when Hajjati Halima passed on, the Defendant was appointed the heir of the estate. Hajjati Halima did not leave any child behind.

During cross examination, DW2 confirmed that he stays in Wakiso and not Kamuli. That Musenze Ngbi was his brother, but he did not meet him. That he last resided in Kamuli at the age of 15 years, but does not remember the year. That he stopped working for Hajjati Naisanga Wanyana when he was 15 years old and was not there in 1980s. He just heard that Adonia sold land and that Adonia and the Defendant are his grandparents in the paternal clan. That Nangobi and Naisanga Sarah are cultivating the suit land. He did not see the mother of Nangobi Zainabu or see her pick coffee on the suit land. That Hajjati Halima raised Nangobi Zainabu, Naisanga Sarah would visit and go. That he has never seen Nangobi Joyce widow to Adonia and he does not know if she was buried on the suit land.

DW2 was not present when Adonia died, but he later came to commiserate, that he was buried on the suit land. That Hajjati Sawuya told her she had been sued in respect of the suit land and he had never heard of a dispute reported in the clan in respect of the suit land.

In reexamination, DW2 answered that by the time he stayed on the suit land, he knew Hajjati Sawuya as the owner of the suit land, but she refused to say they own it with Hajjati Adonia. That Hajjati Sawuya, Hajjati Halima and Nangobi were staying on the suit land and Halima was looking after Nangobi and paying her

school fees. That he never saw Kabogoza Adonia on the suit land, he was in Jinja and a bus driver.

The other two witnesses the Defendant had intended to rely upon passed away in the course of the trial and were substituted by another.

The third Defence witness was **Nambi Jennifer, a female adult aged 54 years old, resident of Kusi, village, Businyere Parishes , Busita Sub County Sironko District, a (herein after referred to as DW2).** Her evidence in chief is captured in her Witness Statement and she testified that she knew the 1st Plaintiffs as her sisters, they have the same father and mother, the late Kabogoza Adonia and the late Elizabeth Joyce Magoba respectively. She knew the Defendant as her aunt, a sister to her late father Kabogoza Adonia Lubandi.

That the estate of the Plaintiffs are claiming originally belonged to Musenze Ngobi their grandfather, when he died, Kabogoza Adonia Lubandi, their late father being his sole male child was appointed heir of his estate. That their late father informed her that he sold off the suit land which was forming part of the estate of the late Musenze Ngobi to Mugudde Yekoyasi at UGZX 53 and he bought land in Nyamwezi, Buikwe District by then Mukono District where he constructed a house and they settled there. That the land neighbored in the north Nyamwezi Primary School, in the south there was Mr. Ali Muswali, east there was Abudhala Kiyemba, west there was Mr. Luboyera Alamazani.

That her father informed her that Mugudde Yekoyasi took possession of the suit land which he had sold to him and built a grass thatched house thereon; and that the suit land was neighboring the road to Mbulamuti, the Bayise Bauka, the late Kago and the Jinja-Kamuli Road.

That her late father further informed her that Mugudde later in the 1950s sold the suit land to Hajjati Sawuya Wanyana, the Defendant and Halima Naisanga who refunded him UGX 35 he had used to purchase the land from him, in addition, she also gave him *kanzu*, hen and a pot of *malwa*.

That Hajjati Sawuya took possession of the suit land and started living there with her sister Halima Naisanga, they cultivated the suit and, built three houses thereon and a store. That the Plaintiffs and she used to come from Nyamwezi to visit their aunties on the suit land and on some occasions stayed with them and helped them with work. That when Halima died, she was buried on the suit land and the Defendant continued utilizing the land up to date.

That their father died in /or about the year 1992 and their mother died in /or about the year 1996, and upon her death, they distributed their father's land at Nyamweza amongst themselves and they all sold off their shares to the late Musa. That her late father and mother were buried on Hajjati Sawuya Wanyana's land on her own request as she said she couldn't burry her brother alone in Nyamwezi which could easily develop into a town and they resolved to bury them with other family members. That Naisanga Sarah was married in Kaliro but after the death of her husband, she left and settled in Nawaka where they also had land, Nangobi Zainabu was married and settled in Bukoli in Mayuge District that is when they came and settled on land in Busota, and the land at Busota was bought for Nangobi by their late father.

Finally, that they all grew up knowing that the suit land belongs to the Defendant, it is just out of greed that the Plaintiffs are claiming a share of the said land at this stage when their aunt is very old.

During cross examination, DW3 answered that he was born in the 1960s and was 54 years old. He confirmed knowing the Plaintiffs and that Nangobi Zainabu is his young sister, that they are four children and four girls Wisanje Sarah Night, Wambi Jenipher, Nangobi Zainabu and Allen Wanyana. That Allen Wanyana died in 1977 and was buried on the suit land, that at the time of his death, their parents were still alive. That she died in 1977, was buried on the suit land and at the time of her death, her parents were still alive.

She knew the suit land and answered that it belonged to Kabogoza Lubandi and that he passed on land inherited by her aunt Hajjati Sawuya; she was aware of the case filed by her mother Magoba Joyce against Hajjati Sawuya trying to protect her father's land from being taken. That Musenze Ngobi her grandfather had one son and that the Plaintiffs are entitled to a share of this land. She was aware that Hajjat Sawuya had obtained Letters of Administration to the estate of Musenze Ngobi and was aware that the estate includes this land. That the suit land was part of Kabogoza's estate distributed to him by Sawuya Wanyana after getting Letters of Administration, but she was still young. That she did not know when Mugudde Yekoyasi bought the suit land, and her aunt Hajjati Sawuya reclaimed the suit land by purchase from Mukudde Yekoyasi. That Sawuya Wanyana acquired the Letters of Administration to her late father and she was reclaiming it on behalf of the family of Kabogoza Lubandi, and her father's share is still there.

In reexamination, DW3 answered that her father died in 1992. That by then, he had sold the suit land and Sawuya Wanyana and Halima Wanyana reclaimed it and were using it as she was growing up. That her father and mother never claimed the suit land during her life time, she was aware of the case by her mother Joyce Magoba and in 1996. **DW3** had no copy of the Letters of Administration by her aunt Hajjatti Sawuya.

During the Locus in quo, visited on 9/12/1022 in the presence of both parties and occupants on the suit land, the court took evidence from the then LC.1 Chairman Kabukye Trading Centre, one Patrick James Muyimba testified that the land was sold by the 2nd defendant in **CS.No.19/1993** was being used by the Plaintiff. The head of the elders, one Mutoito Salimini also stated that that he remembers very well the land was being used by Kabogoza Adonia, Hajjati Halima Naisanga and Sawuya Wanyana. That Kabogoza was the brother to the Appellant (then Plaintiff).

Having summarized all the evidence as led before the trial Court, I have the suit land carefully analyzed all the ground in this Appeal and also examined the certified record of the lower court, the Judgement and orders made therein as availed to me. I have arrived at the following uncontested evidence:-

Original Owner of the suit land

As per the agreed facts in this case, and the evidence led by both parties, it is undisputed that the original owner of the suit land was Musenze Ngobi, the father to the Appellant/Defendant and paternal grandfather to the Respondents/Plaintiffs.

It is also undisputed by both sides that Musenze Ngobi died a very long time ago around 1926 as per **DW1**; and had about nine children who included Hajjati Sauya Wanyana (Defendant), Hajjati Halima Naisanga, Adonia Mpaibi Kabogoza Lubandi (father to the Respondents who was also the customary heir) and others who died before him.

The only surviving son and customary heir to Musenze Ngobi was Adonia Kabogoza Lubandi (father to the Respondents/ Plaintiffs) served in World War II; it is a notorious fact that this ended in 1948, so if **DW1** states that he returned in 1950s, I find this convincing.

DW1 and DW3 led evidence that after his return, he had sold the suit land to one Bugulu Mukudde Yokoyasi, but after this raised concerns led by the

Defendant, this land was redeemed by the Defendant and her sister Hajjati Halima Naisanga refunding the 36 Uganda Shillings he had paid back to him and the land came back into the family.

I have critically examined the agreement entered into between the Appellant, the late Hajjatti Halima Naisanga and Bugulu Mugudde Yokoyasi.

According to the best evidence which in regard to documents, was enacted in **Sections 61 and 63 of the Evidence Act, Cap 6** the contents of a document are best proved primarily by producing the document itself for inspection by the court.

Section 64 of the Evidence Act details the several circumstances where secondary evidence of the contents of the document may be adduced and none of those circumstances were proven in this case before the learned trial magistrate could rely on the secondary evidence of the alleged sale of land agreements.

Pursuant to the provisions of **Section 101 of the Evidence Act, Cap 6**, where a party intends to rely on a certain set of facts, it is the responsibility of that party to prove the said set of facts.

Relating the above to this case, it is consequently clear that it was the responsibility of the Appellant to prove the alleged Sale of Land Agreements since she intended for the court to rely on the sale. This was alluded to by **DW1** her attorney in her evidence in chief, her evidence was corroborated by **DW3** and although both did not adduce the alleged Sale Agreement into Court at the time of trial before the trial court, I find this evidence convincing.

When this Appeal was filed in Court, the Appellant/ Defendant filed **Misc. Appln. No. 0040 Of 2023 (Arising out of Civil Appeal No. 49 of 2022)** in which she sought to tender in the original Sale Agreement between her and Mugudde Yekoyasi as additional evidence on Appeal. This Application was successful and thereafter, Court admitted Hajjati Sawuya Wanyana a very elderly and frail lady in a wheelchair who could not recall her age as **APW1**.

She testified that she bought land from Yokoyasi Mukudde and she called the Respondents as her children. That Yokoyasi Mukudde had bought the land from her late brother Adonia but she did not want her brother to sell her father's land and she refunded his money, a *kanzu* (tunic) and a cock and he returned her land and an agreement was made in the presence of her sister and village elders of Bulanya village. There was Mukudede, his brother Kanasigula and his sister

Nambi. That she paid 35 Shillings, old money which had holes in the middle. That her sister Nangobi, Alitusa Rose and Naisanga were also present.

The Sale Agreement alluded to by **APW1** was admitted as **A Exhibit No. 1(a)** the vernacular version and **A Exhibit 1(b)** the English translation.

During cross examination, APW1 answered that the agreement was made in the home of Mukudde, so many years have passed now and she can't recall. She didn't know the size of the land; that Adonia Kabogoza was her brother, he is the own who sold the land to Yekoyasi; that Adoniya was present but he did not pay the money and she was with her sister Annette Rose.

APW1 could see but could not read and when the Agreement was read to her, she answered that things have taken time, she can't recall other things and she didn't know if she had signed the agreement against the names. That it is the land she is staying at, the children of Adonia are using a bigger portion of this land and brought a murderer home, that they got land where they got married.

That if these children came properly, she can share, but they have cut her food leaving her a total destitute. That Adonia was buried on the suit land all his women had abandoned him. That she was administrator of Musenze Ngobi's estate and it is the land that her father had left. That there is no reason why she would not give them a portion, but they came and cut her food, that her siblings should also get a portion as it is their father's land Musenze, a grandchild of Buzaya.

In Reexamination, she responded that the children of Adonia had got married in Busiki, got problems and returned to their mother's home and to disturb her; and that it is the land Musenze Ngobi left.

In questions by Court, APW1 answered that her brother had sold the land, he is Adonia Mpaibi and she bought it back so that it comes back to the family with her siblings and herself and it was for all of them.

I have critically analyzed the circumstances under which this Sale Agreement admitted as **A Exhibit No. 1(a)** the vernacular version and **A Exhibit 1(b)** the English translation was entered into.

In the first place, a critical examination of the piece of paper it was written on confirms that it is very old and already yellowish brown and is falling apart due to old age.

Secondly, the contents therein corroborates the evidence of both **DW1 and DW3** on all fours very well.

The evidence of **APW1 Hajjati Sawuya Wanyana** also confirms that the piece of land it refers to is not a new piece, but it refers to the land that was sold by the late Adonia Mpaibi Kabogoza Lubandi to Yekoyasi Mugudde Yokoyasi. She was clear that this was a redemption of land belonging to the estate of her late father the late Musenze Ngobi which his son and the late Adonia Mpaibi Kabogoza Lubandi had sold without authority when acting in his capacity as heir to the estate of his late father, BUT with no Letters of Administration.

It also throws light on the fact that the late Adonia Mpaibi Kabogoza Lubandi never distributed any part of that estate to any of his surviving siblings by then **Hajjati Sawuya Wanyana** and **the late Hajjatti Halima Naisanga**.

Section 91 of the Evidence Act cap 6 provides that:-

“When terms of the contract, grant, or any other disposition of property, have been reduced to the form of a document, and in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant, or grant or other disposition of property, or of such matter except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions of this act.”

And **Section 92 of the Evidence Act Cap 6** is also to the effect that ‘no oral evidence is admissible where there a written document to vary, substitute, add or subtract from its contents’.

(a) Estate of the late Musenze Ngobi

The evidence also confirms that the estate of Musenze Ngobi, which basically comprised of the suit land was never legally administered by any one including the heir Adonia Mpaibi Kabogoza, who has first squandered it until it was redeemed by his two sisters.

PW1 in paragraph 2 of her Witness Statement was clear that *“I’m claiming a portion of land that was due to their father the late Kabogoza Lubandi Adonia.”*

In paragraph 9, PW1 stated that *“at the time of her father’s death, the suit land had not been divided, sold off or leased or dealt with in any other way and that they were in occupation of it”*.

In paragraph 10, PW1 stated that *after her father’s death, some clan members started grabbing a portion of the suit land and even sold a portion of it. That this culminated into CS No.19 of 1993 jointly filed but the Appellant and PW1’s mother Joyce Magoba and judgement delivered in their favor.*

The above is also confirmed by **PW2 Naisanga Sarah** in paragraphs 2 and 3 of her Witness Statements. *“That the Appellant is my aunt and I hold no grudge with her. That I’m claiming a portion of the land that was due to my father the Late Kabogoza Lubandi Adonia”*.

It was also confirmed by **DW1** in her Witness Statement *“that Musenze Ngobi owned land in Kabukye which land is the suit land in issue and the said Musenze died in 1926”*.

It is also confirmed by her witnesses **DW2 and DW3** and on appeal, by **APW1 Hajjati Sawuya Wanyana** that the suit land originally belonged to her father the late Musenze Ngobi.

All the above evidence from both sides is confirmation that both parties agree about the original owner of the suit land being the late Musenze Ngobi. It is also clear from the evidence of both **PW1 and PW2** in their respective evidence in chief that they both were only claiming a portion of the suit land that according to them would have accrued to their late father the late Kabogoza Adonia.

The above confirmation to me that they both knew very well that the suit land did not all belong to her late father exclusively, but as a share of the estate of his late father Musenze Ngobi who is also a father to the Appellant/Defendant.

It is also clear that **APW1 Hajjati Sawuya Wanyana** is not averse to sharing a portion of the suit land with the Respondents, her only concerns are their claiming it was all for their late father the late Adonia Mpaibi Kabogoza Lubandi and the callous manner in which they have taken it over, destroyed her food stuffs and threatened her life.

I have also learnt that the gist of the learned trial Magistrate in the Kamuli case **Civil Suit No.041 of 2012** between Joyce Magoba mother to the Respondents and **APW1 Hajjati Sawuya Wanyana** was that the Appellant had no *locus standi* in bringing the suit. Although it has not been easily available, I agree with it because it is obvious that as at that time, **APW1 Hajjati Sawuya Wanyana** had not received any Letters of Administration in respect of the estate of her late father Musenze Ngobi which would have given her leverage to deal in any way with his estate. As such, she could have no locus in any matter she may have been involved in respect of the property which was under the administration of

her brother the **late Adonia Mpaibi Kabogoza Lubandi** and /or his widow and or children.

Further, the fact that **the late Adonia Mpaibi Kabogoza Lubandi** had sold off the suit land to one Yekoyasi Mukudde was not rebutted by the Respondents who seem to have had no knowledge of it.

I have also considered the evidence of **DW1** who testified that *“upon Musenze Ngobi’s death, Adonia Kabogoza who was a brother to the Appellant and the only son among the deceased’s children was appointed as the heir of Musenze Ngobi. That Adonia Kabogoza being the heir, begun to care take the land after the death of Musenze Ngobi and then after sometime in 1950’s he lost interest and sold the said land to Mugudde Yokayasi after his return from Second World War”*.

As already found in this Judgement, this is corroborated by **DW3** and **APW1 Hajjati Sawuya Wanyana**. My conclusions after critically analyzing all the evidence led before the trial court is that the entire suit land did not belong to the Respondent’s father **the late Adonia Mpaibi Kabogoza Lubandi** who was only a customary heir, but to his late father **the late Musenze Ngobi**.

I have also found concrete proof that by the time the late father of the Respondents was heir, the suit land was never legally administered amongst his first line beneficiaries and was never distributed to any of his children/beneficiaries, but that they just continued to occupy it without legally administering his estate.

(b) Occupation and use of the suit land

The evidence led by **PW1** shows that the Appellant/ Defendant is currently in occupation of the suit land, although **PW1** is also using a portion thereon to carry out cultivation. This was confirmed by **PW2 and DW1** during cross examination when she responded that *“Nangobi Zainabu forcefully cultivates the suit land and has crops there”*; **DW2, DW3 and APW1 Hajjati Sawuya Wanyana**.

It is also undisputed by both sides that the late Hajjati Halima Naisanga had no children of her own, but **the late Adonia Mpaibi Kabogoza Lubandi** had daughters who included the Respondents in this case.

It is also undisputed that the **late Hajjati Halima Naisanga** also lived on the suit land and brought up the 1st Respondent/Plaintiff Naisanga Zainabu, a daughter of her brother Adonia Mpaibi Kabogoza on the suit land. The fact that

Hajjati Halima Naisanga lived on the suit land all her life is testified to by **PW1 (now the 1st Respondent)**, when she testified in **paragraph 7** of the witness statement *“My late aunt (Halima Naisanga) built the permanent buildings on the suit land . Together we continued in occupation of the suit land”*.

It was also later on Appeal corroborated by **APW1 Hajjati Sawuya Wanyana**.

I have therefore found convincing evidence that **APW1 Hajjati Sawuya Wanyana** after leaving home to be married, returned to the suit land in or about 1994, also settled back on the suit land, lived thereon and continues to live on the suit land to date. **PW1** in **paragraph 7** of the witness statement *“That the Defendant (now Appellant) also returned to live thereon after her failed marriage and lived on the land with them until 1993 when PW1’s father died”*.

In paragraph 8 PW1 (now the 1st Respondent) testified that *“when her aunt died, her father came home for burial together with her mother. That after burial, they all continued to live on the land”*.

The same was stated by **PW2 Naisanga Sarah** in **paragraph 7** of her witness statement which is almost verbatim to that of **PW1**.

On the other hand, I have found that **the late Adonia Mpaibi Kabogoza Lubandi** was by then not residing on the suit land, but had homes in Njeru and Nyamweze in Buikwe District which the 1st Respondent/Plaintiff admitted that they sold off after his death in 1987. This is confirmed by **PW1, PW2 and DW3**.

With the additional evidence on Appeal by **APW1 Hajjati Sawuya Wanyana**, admitted as **A Exhibit No. 1(a)** the vernacular version and **A Exhibit 1(b)** the English translation respectively, it is evident that **APW1** redeemed the suit land from Bugulu Mugudde Yekoyasi. The evidence led by both sides confirms that the suit land after it was redeemed by both the Appellant and her sister the late Hajjat Halima remained in the family and was occupied by both of them jointly. This can be discerned from the events that took place after the said redemption which included the death of **the late Adonia Mpaibi Kabogoza Lubandi’s** first wife Joyce Magoba who was buried thereon; and it is also not in dispute that **the late Adonia Mpaibi Kabogoza Lubandi** was also buried on the suit land after his death.

The fact that burial of the said family members subsequently took place on the suit land without any problems is convincing evidence that the Appellant who

appeared as **APW1 Hajjati Sawuya Wanyana** and Hajjati Wanyana Naisanga continued to treat the suit land as land belonging to their late father **Musenze Ngobi**; as such, it can safely be concluded that the suit land remained family land still belonging to estate of their late father **Musenze Ngobi**.

Secondly, it is my finding that the estate of the late **Musenze Ngobi** has never been legally administered according to the law, but that his surviving children just continued living on it without getting Letters of Administration until the Appellant got them in the year 2000.

Under the law, the choice of the most suitable person to be appointed administrator of an estate of a deceased person among several next-of-kin, follows certain laid down rules and preferences. For instance, lineal descendants rank before lineal ascendants, and the whole blood before half-blood. Where the next-of-kin are of equal ranking and their interest is almost equal, the Court has the power to accept one or more of them subject to suitability.

According to **Regulation 11 of The Administration of Estates (Small Estates) (Special Provisions) (Probate and Administration) Rules SI 156-1**, the ranking is as follows;-

- (i) *the children of the deceased;*
- (ii) *the surviving spouse;*
- (iii) *the father or mother of the deceased;*
- (iv) *brothers and sisters of the whole blood, or the issue of any deceased brother or sister of the whole blood who had died during the lifetime of the deceased and any persons entitled by virtue of any enactment to be treated as if they were the children of the deceased; or*
- (v) *the issue of any such child of the deceased;*
- (vi) *siblings of the deceased of full blood and the children of such siblings who died in the lifetime of the deceased;*
- (vii) *siblings of half-blood of the deceased or the children of any such half brother or sister who died in the lifetime of the deceased;*
- (viii) *grandparent(s) of the deceased;*
- (ix) *uncles and / or aunts of the deceased of full blood or their children;*
- (x) *creditors of the deceased; and where all the preceding fail,*
- (xi) *the Administrator General.*

By that ranking, the surviving spouse and children of the deceased person take priority to administer the estate of the deceased”.

The alternative approach offered by **section 202 of The Succession Act (as amended)** is that, subject to **section 4 of The Administrator General's Act**, administration should be granted to the person entitled to the greatest proportion of the estate under **section 27 of The Succession Act (as amended)**.

Under that section, if the deceased person was married, the surviving spouse usually gets the largest share. If there are no children, the surviving spouse often receives all the property. More distant relatives inherit only if there is no surviving spouse and if there are no children. In the rare event that no relatives can be found, the state takes the assets.

Further, **Section 2(r) of the Succession Act Cap 162** defines 'a personal representative' to mean "*person appointed by law to administer the estate of a deceased person*".

In the instant case, the Appellant has proved that the estate of her father the **late Musenze Ngobi** has never been legally administered or distributed amongst his first line beneficiaries, as such, the evidence adduced in the lower court clearly confirms that the Appellant is the most suitable surviving beneficiary of that estate. He being appointed the personal representative appointed by law to administer the estate or any part of the estate of **the late Musenze Ngobi** her father cannot there be challenged in law.

In the same vein, it is also not denied that the 1st Respondent having been legally appointed as the personal representative to administer the estate or any part of the estate of her father **the late Adonia Mpaibi Kabogoza Lubandi** and has already with her siblings **PW2** and **DW3** disposed off part of his estate at Nyamweze among others.

Section 180 of the Succession Act Cap 162 provides that "*the executor or administrator as the case may be of a deceased person is his or her legal representative for all purpose and all property of the deceased person vests in him or her as such and in the instant case the appellant is the administrator*".

My conclusions on the above is that the learned trial Chief Magistrate acted erroneously when in his Judgement, he ordered that the Letters of Administration granted to the Appellant be cancelled because there is concrete proof that the estate had never been legally administered; and that no-one including his heir ever applied for and got Letters of Administration in respect of his estate.

Thirdly, it is also clear that both **PW1 and PW2** clearly testified they were only claiming a portion of the suit land that would rightfully belong to their late father. **In cross examination**, both **PW1 and PW2** were certain that the Defendant was also entitled to a share in the suit land as it belonged to her late father, their grandfather. This was also confirmed by **DW3 in cross examination**.

The means that much as the Respondents claim ownership, they are very aware that the Appellant has superior rights to the suit land, but that their father also being a beneficiary, they should be allocated the portion that would have been his entitlement to his late father's estate. It can therefore be concluded that they are both therefore are alive to the fact that the late Musenze Ngobi's estate was never legally administered and or shared among his biological children who qualify as his first line descendants and beneficiaries of his estate.

From the foregoing, while I agree with the submissions of learned counsel for the Respondents that the suit land is property of the late Musenze Ngobi; BUT I DO AGREE WITH HIM with the conclusions he drew that this was inherited to by **the late Adonia Mpaibi Kabogoza Lubandi** only to the exclusion of his sisters who are also biological children of **the late Musenze Ngobi**. Instead, it is my finding after critically analyzing all the evidence of both sides that the suit land is the whole estate of the late Musenze Ngobi and not just part of it. This means that the all the beneficiaries of the late Musenze Ngobi who survived him i.e. (**APW1 Hajjati Sawuya Wanyana** /Defendant/ Appellant, **the late Hajjati Halima Naisanga** and **the late Adonia Mpaibi Kabogoza Lubandi**) all qualify as beneficiaries to his estate under the **Succession Act Cap 162 (as amended)**.

Fourthly, I have also found that since **the late Adonia Mpaibi Kabogoza Lubandi** (heir to the late Musenze Ngobi and father to the Respondents) also had children of his own, then it follows that they are also only entitled to ONLY a share of his part of the estate, which would rightfully belong to their own father as a son/heir of his late father.

Further evidence also reveals that the late **Hajjati Halima Naisanga** had no children of her own to share whatever she would have received as part of her father's estate. Under the law, this would go to her lineal dependents and should be dealt with by the Appellant.

In the circumstances, I cannot hold that the suit land belongs to only the Appellant, because doing so would disinherit her siblings who although deceased now, were also rightful beneficiaries of the estate of their late father Musenze

Ngobi. Instead, it is clear that **the late Hajjati Halima Naisanga** and **the late Adonia Mpaibi Kabogoza Lubandi** (heir and father to the Respondents) are also entitled to have shares on the suit land.

It is therefore my decision that by taking out Letters of Administration to the estate of her late father Musenze Ngobi, the Appellant cannot be faulted, it is clear that she is correcting a controversy that has been long overdue to resolve the estate of her late father. She is therefore entitled to administer the estate of her late father Musenze Ngobi following the law and taking into account the other beneficiaries as mentioned in this Judgement.

From the foregoing, and after carefully analyzing the evidence of both sides, the sole ground in this Appeal partially succeeds. The Judgement and Orders of the learned Chief Magistrate is quashed and set aside. They are replaced by the orders in this Judgement.

Finally, it is now well established law that costs generally follow the event. **See Francis Butagira vs. Deborah Mukasa Civil Appeal No. 6 of 1989 (SC)** and **Uganda Development Bank vs. Muganga Construction Company (1981) HCB 35**. Indeed, in the case of **Sutherland vs. Canada (Attorney General) 2008 BCCA 27** it was held that courts should not depart from this rule except in special circumstances, as a successful litigant has a 'reasonable expectation' of obtaining an order for costs.

In the instant case, the Appellant has succeeded in her Appeal against all the Respondents; and I see no justifiable reasons to deny her costs in this Court and the Court below; she is therefore awarded full costs in this Honourable Court and in the lower Court.

In the final analysis, it is my decision that:-

- (i) This Appeal is ALLOWED.
- (ii) It is declared that the suit land forms the whole Estate of **the Late Musenze Ngobi**.
- (iii) The Appellant as the surviving daughter of **the Late Musenze Ngobi** rightfully acquired the Letters of Administration to administer his estate.
- (iv) The Appellant can rightfully administer the estate of her late father.
- (v) The equitable proposition is for the Appellant to distribute the suit land /estate of the Late Musenze Ngobi into three equal parts to reflect the three direct beneficiaries who survived her late father i.e. **APW1 Hajjati**

- Sawuya Wanyana** (Appellant), **the late Hajjati Halima Naisanga** and **the late Adonia Kabogoza (heir and father to the Respondents)**.
- (vi) The Respondents shall be entitled ONLY to the share that their late father **the late Adonia Mpaibi Kabogoza Lubandi** should have rightfully received had the estate of **the late Musenze Ngobi** been administered earlier.
 - (vii) The portion that rightfully should go to **the late Hajjati Halima Naisanga** as part of her late father's estate shall go to her lineal dependents since it is clear she had had no biological children; and the Appellant shall deal with it according to the law.
 - (viii) The Letters of Administration in respect of the estate of the late **Musenze Ngobi** which **APW1 Hajjati Sawuya Wanyana** (Appellant) has and which had been quashed by the lower Court are reinstated.
 - (ix) The Letters of Administration in respect of the estate of the **late Adonia Mpaibi Kabogoza Lubandi** granted to the Respondents are also valid, but applicable ONLY to his share /portion of the estate of his late father Musenze Ngobi only and any other properties he acquired by himself.

I SO ORDER

JUSTICE DR. WINIFRED N NABISINDE
JUDGE
19/12/2023

This Judgement shall be delivered by the Magistrate Grade 1 attached to the chambers of the Resident Judge of the High Court Jinja who shall also explain the right of appeal against this Judgement to the Court of Appeal of Uganda.

JUSTICE DR. WINIFRED N NABISINDE
JUDGE
19/12/2023