

THE REPUBLIC OF UGANDA

**IN THE HIGH COURT OF UGANDA AT MPIGI
FAMILY MISC APPLICATION NO.13 OF 2021**

ARISING FROM ADMINISTRATION CAUSE NO 35 OF 2018

**IN THE MATTER OF THE ESTATE OF LATE BINTANULA
AUGUSTINE MITALA FORMERLY OF BULUNDA VILLAGE,
BULUNDA PARISH, BUWAMA SUB-COUNTY, MAWOKOTA
COUNTY, MPIGI DISTRICT.**

**IN THE MATTER OF AN APPLICATION FOR LETTER OF
ADMINISTRATION BY ANTHONY A. KIWANUKA MASIISA
(NEPHEW AND HEIR OF AUGUSTINE BINTANULA MITALA)**

RULLING BEFORE

JUSTICE NABAKOOZA FLAVIA K.

This is an application for letters of administration by Anthony Kiwanuka Masiisa Nephew and heir of the late Augustin Bintanula Mitala.

This Miscellaneous Application No.13/2021 was filed on 30/9/2021 arising out of Administration Cause No.35/2018.

The application was brought under Article 126(2) of the Constitution of Uganda 1995, s.14 Judicature Act cap 13 and S.98 C.P.A cap 71.

The applicant and Emmanuel B. K. Mumira a grand nephew of late Bintanula Augustine Mitala lodged caveats in Administration Cause No.35/2018 on 14th May and 21-05-2018 respectively.

The Court ordered the petitioners in Administration No 35 who are the great grandchildren of late Bintanula to file a suit on 23/9/2020 within 14 days after the above mentioned caveats were lodged. They were given several adjournments but failed to file a suit until their

application was dismissed, under 0.17 R.4 Civil Procedure Rules on **13/11/2020** by the trial Judge.

The current application before me was then filed on **30/9/2021**. This application was adjourned on several occasions, sometimes in absence of all parties or in the presence of Counsel Katabalwa Francis for the Applicant but in absence of the Respondents.

On **9/5/2022** Court directed Counsel Katabalwa Francis to serve the Respondents. It's worth noting that the record has no affidavit of service of this application to the Respondents even after the above court directive to serve.

Be that as it may, this Application was brought under Article 126(2) of 1995 Constitution S.14 Judicature Act and S.98 of the Civil Procedure Act, it should be noted that this is an application for grant letter of Administration to parties who had lodge a caveat in Admin. Cause No.35/2018.

There is a clear procedure in the Succession Act Cap 162 for applying for Letter of administration or Probate. In S.265 of Cap 162 this Act when the application in question becomes in contentious, then it takes the form of a regular suit according to the provisions of the law relating to Civil procedure.

S.14(c) of Judicature Act provides for the unlimited jurisdiction of the High Court where no express laws or rules applicable.

In this Application the express law in the succession Act exists and these statutory provisions in sections S.255 and S.265 of cap 162 the procedure was articulated by **Justice Michael Elubu in the case of Terry Kaggwa and others V Namugenga Millian Kayaga and Andrew Ssonko Civil Suit N.104 of 2016.**

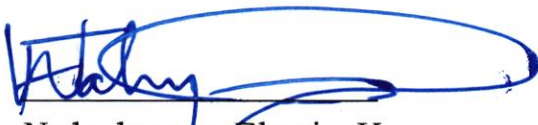
In addition, the Application before me was filed a year later arising out of Administration Cause No.35 of 2018 which was already dismissed on 13/11/2020.

The accompanying affidavit to this application mentions a Will which was not attached and the letters mentioning the contents of the Will are attached with no English translated versions of the same.

Finally, since Admin. Cause No.35/2018 was dismissed in 2020 the Miscellaneous Application No.13/2021 could not arise out of an already dismissed Administration Cause.

Therefore, Misc. Application No.13/2021 is accordingly dismissed. I Make no orders to costs.

Dated at Mpigi this^{6th} day of November 2023


Nabakooza Flavia K.
JUDGE