

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT LUWERO**  
**HCT-17-FD-GA-0001-2023**  
**IN THE MATTER OF AN APPLICATION FOR A GUARDIANSHIP ORDER BY**  
**NAJJUMA FATIAH (MOTHER OF THE INFANTS)**  
**AND**  
**IN THE MATTER OF SSANDE MUHOOZI KAGAME AND NATASHA MUHOOZI**  
**(INFANTS)**

**BEFORE LADY JUSTICE HENRIETTA WOLAYO**

**RULING**

Introduction

1. On 11.10.2023, the applicant Najjuma Fatiah moved the court under Section 98 of the Civil Procedure Rules and Orders 52 rules 1 & 3 of the Civil Procedure Rules for orders that:

The Applicant be granted guardianship of Ssande Muhoozi Kagame aged eight years and Natasha Muhoozi aged five years (both infants) to obtain letters of administration over the estate of the late Ssande Muhoozi, father to the said minors so as to cater for their education and other basic needs.

2. The grounds in support of the application are contained in the affidavit of the applicant, Najjuma Fatiah.
3. When the matter came up for hearing on 30.01.2024, I directed the applicant to produce a birth certificate, letter from the LC1 chairperson confirming their residence and parentage; birth certificate from NIRA; and proof of death of Sunday Muhoozi.

4. The applicant and the two infants, Ssande Muhoozi and Natasha Muhoozi were present in court on 30.1.2024 and I had an opportunity to interact with them. Counsel for the applicant filed written submissions that I have carefully considered.

#### Background Facts.

5. The applicant Najjuma Fatiah deposed that she is the biological mother to the Sunday Muhoozi Kagame born on 31.5.2015 (nine years) and Natasha Muhoozi Mutesi born on 29.4.2019 (five years) both infants. The birth certificates of the two minors attached to the additional affidavit of the applicant shows that their father is Muhoozi Sunday and their mother as Najjuma Fatiah, the applicant.
6. The applicant also produced a letter from the LC 1 Chairperson of Kirinda, Wakyato, Nakaseke district dated 9.2.2024, confirming that the applicant is the mother of the two infants. I am therefore satisfied that the applicant is the biological mother of the two infants.
7. Najjuma deposed that the father of the children Muhoozi Sande died on 5.8.2017. She produced a death certificate which proves conclusively that indeed, Muhoozi Sunday is now deceased.
8. The key reason Najjuma brings this application for guardianship is because as the sole breadwinner of the family, she needs a guardianship order to apply for letters of administration over the estate of late Muhoozi Sunday so as to be in position to provide for her children's welfare and maintenance. The applicant's national identity card shows she was born on 15.3.1983 which means she is now 41 years and therefore an adult with capacity to be appointed a guardian.

#### Resolution of the case

9. The law applicable in this case is Section 44 of the Succession Amendment Act 2022 and the Children Act Cap. 59 as amended as amended.

10. **Section 3(1) and (3) of the Children's Act 2016 as amended** provides that the welfare principle shall be of paramount consideration by court or tribunal in determination of any question in respect of the child's upbringing or administering the child's property. Subsection (3) further provides that while determining any such question, regard shall be given to the child's needs, ascertainable wishes and any likely effects of any change in the child's circumstances
11. As submitted by counsel for the applicant, in determining whether the applicant should be appointed guardian for the infants, the court is duty bound to determine the relationship between the applicant and the infant; the wishes of the child; whether the applicant can provide for physical, educational, health needs, and shelter to the infant.
12. The applicant has demonstrated that she is the sole bread winner of the family which means she is the person best suited to have the best interests of the children at heart.
13. Regarding the specific purpose of the application for guardianship, which is to apply for letters of administration to the estate of the deceased father of her children, this court is duty bound to grant the application bearing in mind **Section 44 of the Succession (Amendment) Act 2022**. Section 44 thereof provides for a statutory guardian. The court may appoint a statutory guardian where the mother or father or both of them are deceased. Preference is given to the mother or father of the deceased; brother or sister of the deceased. Under Section 44(2), where there is no one willing to act, the court may appoint any other person as guardian.
14. Since only the applicant as mother of the children has come forward to apply for appointment, she will be appointed statutory guardian under Section 44(2) of the Succession Amendment Act 2022 of the infants Muhoozi Sunday

Kagame and Natasha Muhoozi Mutesi to enable her apply for letters of administration for the estate of late Sunday Muhoozi.

a) No order as to costs

**DATED AT LUWERO THIS 2<sup>ND</sup> DAY OF APRIL 2024**



**LADY JUSTICE HENRIETTA WOLAYO**

**Legal Representation**

Lynnet Musumba, FIDA Uganda for the Applicant