

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA HOLDEN AT ARUA
HCT – 08 – CV – MA – 0012 – 2015**

**SULTAN (OPI) FADEL EL MULA ADHU
OKUNA II ACHIKULE NASUR _____ APPLICANT**

=VERSUS=

- 1. SAID OKUTI NASUR**
- 2. HABIB TIBRICHU**
- 3. OLIMA JUMA PALE _____ RESPONDENTS**

RULING
BEFORE HON. JUSTICE VINCENT OKWANGA

The application by summons in chambers was brought under O.4, rr. 1 & 9 CPR and S.98 Civil Procedure Act for orders that a temporary injunction doth issue against the respondents, their agents, assignees, employees and any other persons acting under their instructions from interfering with the administration of the Kingdom of Ambala Aringa under the Kingship of Sultan (Opi) Fadel El Mula Adhu Okuna II, Mr. Achikule Nasur, impersonating the said Sultan in any way and at any function or activity concerning or connected with the Kingdom of Ambala Aringa without the express written permission from the Sultan (Opi) Fadel El Mula Adhu Okuna II, Mr. Achikule Nasur; and for costs of the application.

It is supported by the affidavit of the applicant dated 16th April, 2015, in which the following grounds were highlighted and specifically as follows:-

1. That the applicant is the duly elected and enthroned king Sultan or “Opi” of the Ambala kingdom, having been enthroned on the 18th day of January, 2014.

2. That the respondents have since 23rd day of March, 2014, been at the forefront of disorganizing the operations of the Ambala Aringa Kingdom, impersonating the Sultan, particularly the 1st respondent by calling himself Sultan Said Fadel El Mula Ali Adu Okuna II.
3. That the respondents have been using the police to block some of the planned activities of the Kingdom of Ambala aringa under the pretext that such activities would cause insecurity in the area.
4. The respondents are illegally holding the kingdom properties like Official Stamps and flags which they are using illegally to further their illegal acts like impersonating the King or Sultan of Ambaala Aringa kingdom and writing correspondences using some of the said official properties which has caused irreparable injury to the applicant and the entire kingdom of the Ambala Aringa as a whole.

Counsel for the applicant, Mr. Edward Kangaho argued that a temporary injunction be issued to restrain the respondents, their agents, assignees, employees or any other persons acting under their instructions from interfering with the administration of the kingdom of Ambala Aringa under the Kingship of Sultan (Opi) Fadel El Mula Adhu Okuna II, Mr. Achikule Nasur, otherwise the applicant will suffer irreparable injury that may not be allowed to by award of damages and the applicant's main suit now pending before this Hon. Court would be rendered nugatory.

Counsel further submitted that his client, the applicant was duly and subsequently enthroned king or Sultan Opi of the Ambala Aringa Kingdom on 18/01/2014.

The counsel for the respondents Mr. Henry Odama opposed this application very strongly objected to this application being granted arguing that the affidavit sworn by the applicant in support of this application does not satisfy the grounds for grant of a temporary injunction such as the existence of a prima facie case with a probability of success, irreparable damage or loss not capable of being atoned by way of damages, and that the balance of convenience not being in favour of the applicant, this application must fail and should be dismissed with costs.

Counsel contended in his reply that the applicant is not actually the Sultan of Ambala Aringa as he is not one of the sons of Nasuru who is the son of Adha, the first king of the Ambala Aringa. That the applicant doesn't even qualify to be king or Sultan and was not elected nor crowned as king/sultan as per the Constitution of the Ambala Aringa kingdom.

Counsel submitted that the 1st respondent Nassur Okuti being the biological son of Adhu is the legitimate and rightful successor to the King, Adhu. From that lineage, Said Okuti Nasur, the 1st respondent, who is the biological son of Nasur Okuti, son of Adhu Fadimula – the 1st Sultan is the rightful candidate to succeed the King, but not the applicant who is a cousin to the royal family, being a grandson of Ambaga who was the brother to the 1st Sultan King – the applicant's father being Hussan makes the applicant unelegible as successor to the King as he is not from the direct lineal descendant of the 1st Sultan as per the Constitution of the Ambale kingdom. To him there was no proper election of the king of Ambala Aringa on 18/01/2014 and what was purportedly conducted as an election and enthronement of the King/Sultan of 18/01/2014 was a sham and there is therefore no properly enthroned Sultan or King of the Ambala Kingdom as of now.

The purported election and enthronement of the applicant on 18/1/2014 was therefore null and void.

Under 0.41 r.1 this Hon. Court has discretion to grant a temporary injunction where the applicant has shown that there is a prima facie case with a probability of success, where the applicant is likely to suffer irreparable injury and where court is in doubt, the matter is to be decided on the balance of convenience.

This is the position emphasized in the case of **Commodity Trading Industries Ltd & Manjon (U) Ltd =Vs= Uganda Maize Industries Ltd & Simba Distributors Ltd [2001 – 2005] HCB 118, C.A. 406 of 2003 HCT.**

Although I find that the applicant has filed a suit CS. No. 0008 of 2015, against the 3 respondents herein, I feel that the applicant is not likely to suffer any irreparable damage

or injury that may not be adequately atoned to by damages considering the nature of the claims in this application if the application is not granted.

Considering the resolutions of the upper and lower Governing Council of Elders of the Ambala Aringa Community of 23/03/2014 and the Elders meeting of 06/12/2014, I find that the balance of convenience is titled against the applicant and accordingly this Hon. Court can't grant an order to maintain the status quo as prayed. Neither will this failure to grant this order prayed for affect the outcome or the substance of the applicant's quit pending before this hon. Court, which the applicant is hereby urged to prosecute expeditiously.

This application having disclosed no merits is hereby rejected and dismissed with costs to the respondents. It is hereby ordered!

VINCENT OKWANGA

JUDGE

30/10/2015