

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT JINJA
MISCELLANEOUS APPLICATION NO. 184 OF 2017
(ARISING FROM CIVIL NO. 14 OF 2016)**

**TSMP (U) LTD.....APPLICANT
VERSUS**

- 1. REGISTRAR OF TITLES**
- 2. NANTAMBALA JOYCE.....RESPONDENTS**

RULING

BEFORE: HON. LADY JUSTICE EVA K. LUSWATA

The applicant filed this motion for orders that the Jinja District Land Board be added as a defendant in Civil Suit No. 14/2016 (hereinafter referred to as the main suit). The main ground is that the Jinja District Land Board (hereinafter referred to as the Board) is a necessary party in the main suit to explain to Court the circumstances under which Plot 24 Spire Road, Jinja (hereinafter referred to as the suit land) was allocated to the 2nd respondent, especially in view of the applicant's existing occupancy, and an interim order barring all transactions on the suit land at the time.

Mr. Bob Napinder Singh Dhillon, the applicant's attorney swore an affidavit in support of the motion. He stated that the applicant's lease on the suit land is still in place until 2024 and the applicant has since purchasing the suit land been in occupation thereof. He continued that the allocation by the Board to the respondent and the current free hold title in the latter's favour is fraudulent. That as such, the Board as the controlling authority and allocator of the suit land to the respondent ought to be joined as a defendant.

Ms. Nantabala Joyce the 2nd respondent filed a much belated affidavit in reply. She argued that owing to the claims in the plaint, adding the Board would not help the Court resolve the dispute and is a mere waste of time she added that no reasons have been advanced for the Court to grant the application.

On 7/3/2019, I allowed *ex parte* proceedings owing to the absence of the 2nd respondent and her advocate. The 2nd respondent's affidavit cannot be considered for as pointed out by applicant's counsel, it was filed well out of the period permitted by statute. Thus, this application stands unopposed and only the pleadings and brief submissions of counsel Godfrey Malinga will form the basis of my ruling.

The provisions of Order 1 rr 10(2) permit any party to a pending suit to move Court to add a party whose presence in the suit, is necessary to enable the Court to effectually and completely adjudicate upon and settle all questions involved in the suit. The applicant claims that the Board is one such person.

I note that no mention was made of the Board in the main suit. The claim is one against the 2nd applicant for making unfounded adverse claims to the suit property and for the Registrar of Titles to decline from issuing a special certificate of title.

However, it is claimed in the application that it is the Board that fraudulently allocated the suit land to the 2nd respondent enabling her to obtain a free hold title, a copy of which was attached. Ordinarily, the Board as the statutory controlling authority would be the entity that allocates land within Jinja District, before titles of any tenure are issued. The suit land is situated at Spire Road in Jinja and it would thus be correct for applicant's counsel to argue that the Board would be a necessary party to this suit. They need to come on board to explain the circumstances under which an allocation of the suit land was made to the 2nd respondent, if at all, especially in view of the subsisting lease in favour of the applicant, and an interim order restraining against any dealings in the suit land.

I would therefore allow the application. The applicant is permitted to add the Jinja District Land Board as a third defendant in the suit. They should take note of any statutory notices that may be required preceding an action against a statutory body, if any applies to the applicant. The applicant is permitted to file an amended plaint that reflects any additions within 15 days of this order and serve it upon the respondents. The respondents will likewise be allowed to respond to the amended plaint within the time permitted by statute.

Costs of this application shall be in the cause.

I so order.

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EVA K. LUSWATA

JUDGE

DATED: 14/3/2019