

1. MUGISHA ENOS
2. SSEBUNYA STEPHEN
3. KAZUNGU FRED
4. KALIISA JOHN BAPTIST
5. RUTAISIRE FAUSTINE MARK
6. KAGWISAJJE MOSES
7. KIGAMBE HOSEA
8. BAGYIRE GEORGE :::::::::::::::::::::::::::::::::::::: APPLICANTS

KYOTERA DISTRICT LAND BOARD :::::::::::::::::::: RESPONDENTS

RULING

1. The Applicants be granted leave to sue by way of a representative action on their own behalf and on behalf of several others;
2. Costs of the application be provided for;

1

- a. He is one of the occupants and natives who have occupied for over 30 years the suit land comprised in former LRV 149 Folio 22 land at Buddu Masaka (Sango Bay Estates) having acquired and inherited their interests from the natives of the land;
- b. The suit land was first leased to Sango Bay Estates in the 1930s and at the time of that lease, there were people who occupied the land and were referred to as “Natives” in the lease instrument;
- c. The Applicants and several other persons acquired and obtained further interests over the suit land from those “Natives”;
- d. That the lease instrument had a clause allowing the natives to continue using their land and their land was excluded from the lease;
- e. The Respondent as the controlling authority has re-entered the land and terminated the lease;
- f. Persons have been seen inspecting the land with a view of acquiring the same which undermines the Applicants’ rights;
- g. The Applicants have been authorized by their fellow natives and occupants to commence proceedings for protection and realization of their rights in the suit land;

Determination of the application;

Order 1 Rule 8 of the Civil Procedure Rules provides that;

(1) Where there are numerous persons having the same interest in one suit, one or more of such persons may, with the permission of the court, sue or be sued, or may defend in such suit, on behalf of or for the benefit of all persons so interested. But the court shall in such case give notice of the institution of the suit to all such persons either by personal service or, where, from the number of persons or any other cause, such service is not reasonably practicable, by public advertisement, as the court in each case may direct.

(2) Any persons on whose behalf or for whose benefit a suit is instituted or defended under subrule (1) of this rule may apply to the court to be made a party to that suit.

The effect of this provision is that where there are several persons sharing the same interest, the parties who have been authorized to represent those persons in the suit should be granted permission from the court to institute a representative suit. The gist of the provision is that the parties should have the same interest and upon obtaining authorization to represent the several persons, the persons with authorization proceed to obtain permission from court to institute the representative suit and the next step should be issuing notices of institution of the suit by the court to all such persons, on whose behalf the suit is brought, either by personal service or by public advertisement as the court may direct.

The Applicants have attached a list of several persons all known to be either ‘*Natives*’ or having acquired or inherited an interest from the ‘*Natives*’ of the land comprised in former ***LRV 149 Folio 22 land at Buddu Masaka (Sango Bay Estates)***, the subject of the intended suit. I am convinced that they have the same interest and they have agreed to be represented by the Applicants in their intended suit.

In the case of ***Ibrahim Buwembo, Emmanuel Sserunjogi, Zubairi Muwanika for and on behalf of 800 others v. UTODA Ltd., HCCS No. 664 OF 2003 cited in MISCELLANEOUS CAUSE No. 0017 OF 2017 ODAMA LUIJI & 4 ors versus THE REGISTERED TRUSTEES OF ARUA DIOCESE***), it was held that wording of Order 1 rule 8 (1) with regard to notice either by personal service or by public advertisement as the court may in each case direct is mandatory. It was further stated that the notice by public advertisement must disclose the nature of the suit as well as the reliefs claimed so that the interested parties can go on record in the suit to support the claim.

Having found that the intended parties share the same interest, the next step for notice to be issue to all the parties for whom the suit is intended to be brought. Each of the persons whose names are on the list attached to the application should be served with the notice of institution of the suit in accordance with Order 1 rule 8 (1) of The Civil Procedure Rules.

The notice of institution of the suit should be served by public advertisement and must contain the following;

1. The notice should mention all the persons who intend to bring the representative suit;
2. The notice should clearly disclose the nature of the suit, the reliefs sought, and the claims should be clearly stated;
3. The particulars of the advocate representing the parties should be clearly stated together with the advocate's address of service;
4. The notice must clearly state that other persons interested in being added as parties to the suit may apply to be added and such time within which they should apply;
5. The notice must state that it has been issued pursuant to this order court citing the date of issuance.

This application is hereby allowed with no order as to costs.

I so order.

Dated at Masaka this 22nd day of October, 2021

Signed;



VICTORIA NAKINTU NKWANGA KATAMBA

JUDGE