

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT MASINDI  
MISCELLANEOUS APPLICATION NO. 18 OF 2021

*(Arising from Miscellaneous Cause No. 35 of 2020)*

1. UMAR IRUMBA  
2. KIZZA SARAH  
3. NYANGOMA BEATRICE } ..... APPLICANTS

**VERSUS**

ACHUROBWE FRIDAH ..... RESPONDENT

**RULING**

*Before: Hon. Justice Byaruhanga Jesse Rugyema*

[1] This Application is brought under **S.98 CPA** and **O.S 2rr.1,2 & 3 CPR** for Orders that the order of court issued on 9<sup>th</sup> December, 2020 appointing the Respondent as Administrator of the Estate of the late **Achurobwe Peter** for purposes of distributing the land at **Kiduru Cell, Bigando, Masindi District** be recalled and set aside.

[2] The issues in support of the Application are outlined in the Affidavit of each of the Applicant filed in support of the Application, in brief are;

- 1. That the Applicants are greatly prejudiced by the order because the Estate of the late Peter Achurobwe was long distributed and the Respondent wants to use the grant to redistribute and dispose of the interests of the Applicants and the other children of the deceased.*

2. *That the Applicants are bound to suffer irreparable damage because the Respondent is using the Grant to cause untold unrest within the family.*
3. *That upon death of the late Achirobwe, Court appointed Mugisa Moses as Administrator of his Estate who distributed the Estate and accordingly filed an inventory.*
4. *That it is only fair, just, equitable and in the interest of justice that this Honourable Court allows this Application.*

[3] The Applicants are represented by **Ms. Susan Zemei** of **Aber Law Chambers, Masindi** while the Respondent is represented by **Mr. Simon Kasangaki** of **Kasangaki & Co. Advocates, Masindi.**

#### **Background of the Application**

- [4] The Applicants are all beneficiaries of the Estate of their late father **Peter Achurobwe** who died intestate on 29<sup>th</sup> April, 1982. The 1<sup>st</sup> Applicant is a son to the Respondent while the 2<sup>nd</sup> and 3<sup>rd</sup> Applicants are step daughters to the Respondent, one of the widows to the deceased **Peter Achurobwe.**
- [5] Upon the demise of the late **Peter Achurobwe**, his son, the late **Mugisa Moses** was appointed the Administrator of the Estate of the deceased. The Estate of the deceased was in 2005 distributed and the said Administrator, **Mugisa Moses** accordingly filed an inventory on the 1<sup>st</sup> August, 2008.
- [6] As per the inventory that was filed in Court, the Respondent, widow of the deceased were given 20 acres of the **“unleased” land at Bigando** together with her children and the other

children of the deceased/beneficiaries namely; **Kaahwa Sarah, Kiiza Sarah** (the 2<sup>nd</sup> Applicant), **Kiirya Abdul**, Irumba Umar, Asiimwe Sofia, **Grace Nyamaizi** (dead) and Asingura Esteri (dead). This distribution/inventory was confirmed and passed vide **C.S. No. 10 of 2009** at p. 8 of the Judgment as follows:

*“The Bigando land was distributed not only to the Plaintiff and her children but other children as well.*

*From the evidence, it is apparent there is virtually no estate remaining that would necessitate the Court to issue a fresh grant. Instead, it is ordered the two remaining acres of the titled land are for the Plaintiff and are to be carved out of the Certificate of Title”.*

- [7] From the foregoing, it is therefore indeed true as contended by the Applicants that the Estate of the late **Peter Achurobwe** was long distributed and therefore, there is nothing left of the Estate to distribute.
- [8] On 1<sup>st</sup> October, 2020, the Respondent filed **H.C. Misc. Cause No. 35 of 2020** seeking for consequential order that she be appointed as the Administrator of the Estate of the late **Peter Achurobwe** for purposes of distributing her share to the beneficiaries since the former Administrator **Mugisa** was no longer the Administrator for he had passed on and an inventory had already been filed. The Application was accordingly granted in the following terms;

**The Respondent widow of the Estate of the late Achurobwe Peter ascertain her 20 acres out of the unleased land at Bigando and then be able to distribute**

**it to her children and the other beneficiaries and file an inventory accordingly.**

### **Determination of the Application**

- [9] The present Application seeks to recall and set aside the order of Court issued on 9<sup>th</sup> December, 2020 appointing the Respondent as Administrator of the Estate of the late **Peter Achurobwe** for purposes of distributing the land at **Kiduru cell, Bigando**. The order was issued by the Assistant Registrar of this Court. I think this order was issued without jurisdiction for the Registrar has no powers to appoint an administrator of the Estate. It is not among his powers provided under **O.50 CPR**. As this is an illegality that has been brought to the attention of Court, it can be ignored and left to stand. I accordingly set it aside. **(Ref; Makula International ltd v Cardinal Nsubuga & Anor; Civil Appeal No. 4 of 1981 [1982] UGSC 2) (1982) HCB 11.**
- [10] In the premises, I am unable to pass the filed inventory based on a Grant that was illegally issued on 9<sup>th</sup> December, 2020 by the Assistant Registrar.
- [11] The Respondent, and the Applicants and all the beneficiaries of the Estate of the late **Peter Achurobwe** are bound by the order in **H.C. Misc. Cause No. 35 of 2020** where the Respondent was granted **limited letters of administration** to enable her deal with her share of the land in the estate of the late **Achurobwe Peter**. It limits her to the **20 acres of the “unleased”** land at Bigando and **2 acres** of the titled land that are to be carved out of the Certificate of Title of the land comprised in **LRV 874, Folio 11, Block 4, Plot 12 at Bulyasojo (Kijura).**

The Respondent is urged to abide by the terms as clearly set in **H.C. Misc. Cause No. 35 of 2020** so as to avoid further conflicts in the family and bickering of the other beneficiaries. The above therefore ought to form part of the inventory, if not yet filed by the limited Administrator of the Estate of the late **Peter Achurobwe**.

[12] This ruling should lay to rest the bickering of the beneficiaries and widows of the late **Peter Achurobwe**. This being a family matter, each party is to bear his or her own costs.

Order accordingly.

Dated and Delivered at Masindi this **9<sup>th</sup> day of September, 2022.**

**Byaruhanga Jesse Ruggyema**  
**JUDGE**