

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT FORT PORTAL**  
**HCT – 01 – CV – CS – 0024 OF 2020**

**BWAMBALE A. ADAM ::: PLAINTIFF**

5 **VERSUS**

- 1. BYABASHAIJA PATRICK**
- 2. BUKENYA SWIZIN**
- 3. RWAKILEMBE WILSON**
- 4. PADDY KIKERE**
- 10 **5. ROHODA**
- 6. BIRUMBO JOSEPHAT**
- 7. SEZI**
- 8. MONDAY WILSON**
- 9. NZANGURA LOZIO**
- 15 **10. BALUKU RICHARD**

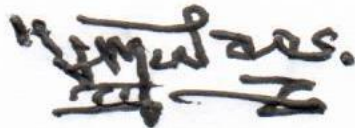
**11. BIIRA REGINA ::: DEFENDANTS**

**BEFORE: HON. JUSTICE VINCENT WAGONA**  
**RULING**

**Introduction:**

20 The plaintiffs brought this suit against the defendants jointly and severally seeking orders that:

- 1. A declaration that the plot of land comprised in LRV 1358, Folio 25, Plot 1, Block 36 land at Nyakatonzi, Rwenzori, Kasese (suit land) belongs to the plaintiff.

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2. A declaration that the defendants are trespassers on the suit land.
3. An order of vacant possession of the suit land
4. An order of eviction, mesne profits, a permanent injunction, interest, general damages and costs of the suit.

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The suit was filed on 20<sup>th</sup> August 2020. The summons were signed/issued on 20<sup>th</sup> August 2020 and served upon the defendants who filed a joint written statement of defense and counter claim on 3<sup>rd</sup> September 2020 and a reply was filed by the plaintiff on 24<sup>th</sup> September 2020. The parties went ahead and generated a joint scheduling memorandum which was filed on 11<sup>th</sup> January 2022. The plaintiff's trial bundle was filed on 14<sup>th</sup> July 2022 with witness statements while that of the defendant was filed on 8<sup>th</sup> August 2022 with witness statements. Thereafter, no further steps were taken.

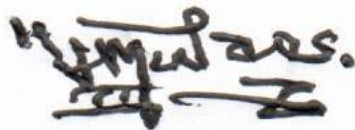
15 The plaintiff should have, within seven days from the last of the compliances in the summons for directions, had the suit fixed for a scheduling conference before the trial judge. This was not done.

The court fixed the case for mention on 22 February 2023 with a view to hold the scheduling conference and progress the case. On that day, none of the parties or their lawyers attended court.

**Decision:**

Order 17 rule 5 and 6 of the Civil Procedure rules as amended provides thus:

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**Dismissal of suit for want of prosecution.**

(1) *In any case, not otherwise provided for, in which no application is made or step taken for a period of six months by either party with a view to proceeding with the suit after the mandatory scheduling conference, the suit shall automatically abate; and*

(2) *Where a suit abates under sub-rule (1) of this rule, the plaintiff may, subject to the law of limitation bring a fresh suit.”*

Order 12 rule 1 of the Civil Procedure Rules provides thus;

*“The court shall hold a scheduling conference to sort out points of agreement and disagreement, the possibility of mediation, arbitration and any other form of settlement—*

Section 98 of the Civil Procedure Act provides for the inherent powers of the High Court and states as follows: ***“Nothing in this Act shall be deemed to limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.”***

Section 17 (2) of the Judicature also provides for the inherent powers of the High Court and states as follows: ***“With regard to its own procedures and those of the magistrates courts, the High Court shall exercise its inherent powers to prevent abuse of the process of the court by curtailing delays, including the power to limit and stay delayed prosecutions as may be necessary for achieving the ends of justice.”***

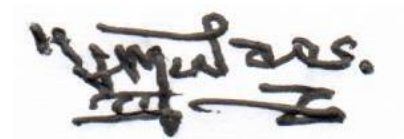
In this case there was no opportunity to hold a scheduling conference because the plaintiff did not seek it and both parties and their lawyers did not attend court when  
5 the case was fixed for mention with a view of holding a scheduling conference to progress the case.

It is thus my view that this suit abated under Order 17 rule 5 of the Civil Procedure Rules as amended. In the alternative, the case is hereby dismissed for want of  
10 prosecution under the above provisions. There is no order as to costs.

I also dismiss Misc. Application No. 32 of 2017 and 30 of 2017 for want of prosecution.

15 Furthermore, I vacate the interim injunction issued on 14<sup>th</sup> July 2017.

It is so ordered.



Vincent Wagona

20 **High Court Judge**

**FORT-PORTAL**

**20.03.2023**

