

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
HOLDEN AT MBALE**

**HCT-04-CV-CR-0011-2012
(FROM SIRONKO FAMILY CAUSE NO. 0013/2009)**

**MAFABI ABUSOLOM.....APPLICANT
VERSUS
BETTY BULAFU.....RESPONDENT**

**BEFORE: THE HON. MR. JUSTICE STEPHEN MUSOTA
ORDER IN REVISION**

This file has been placed before me for a possible Revision Order of the decision of the Magistrate Grade II Sironko in Family Cause 13 of 2009.

According to the record, **Betty Bulafu** the applicant filed the said application by way of chamber summons against the respondent **Mafabi Absolomu**. The claim in chamber summons was for “custody and maintenance”. However, in the applicant’s affidavit in support she deposes that the grandfather to her children had grabbed the piece of land given to the “late containing cassava.”

The trial of the application went ahead but not for custody and maintenance but for recovery of land. The trial Magistrate even visited the *locus in quo*, drew sketch plans and made a ruling with orders that:

1. The respondent be restrained from interfering with the land and all developments thereon, which was allocated to the late **Bulafu**.
2. The applicant to remain in possession of the matrimonial home with her children without interference.

3. The applicant to remain using the estate of her late husband without any interference by the respondent or his agents etc.

Clearly, the above orders have nothing to do with custody and maintenance. What the trial Magistrate did was to adjudicate over a land dispute. He had no jurisdiction to do this.

S.14 of the Children Act limits jurisdiction of the Family and Children Court (FCC) to criminal charges against a child subject to S.93 and 94 of the Act and to applications relating to child care and protection. The FCC and Magistrates Grade II have no jurisdiction to handle land disputes.

Without jurisdiction, whatever the magistrate Grade II did was a nullity *ab initio*.

The decision and orders of the trial Magistrate were illegal. They are quashed and set aside.

The applicant should institute a fresh suit in a court of competent jurisdiction.

In the meantime the status quo should be maintained in the interest of the children.

Stephen Musota

JUDGE

24.01.2013