

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

**HCT-04-CV-MA-0075-2013
(ARISING FROM CIVIL SUIT NO. 005-2013)
(ADMINISTRATION CAUSE NO. 0003 OF 2013)**

- 1. MILTON BUKAWA WEKHOLA**
- 2. GEORGE KOLOTO MUKHWANA**
- 3. DAVIES KUTOSI WEKHOLA.....APPLICANTS**

VERSUS

NATOOLO WILLIAM.....RESPONDENT

BEFORE: THE HON. MR. JUSTICE HENRY I. KAWESA

RULING

This application is brought under O. 41 r.19 (a) of the Civil Procedure Rules. The applicant prays for a temporary injunction restraining the Respondent, agents, worker men or any other person corporate or otherwise from intermeddling and collecting rents and/or dues from the various business concerns comprised in the Estate of the late **Fred Koloto** until the disposal of the substantive suit.

Costs of the application are prayed for.

The application is supported by the affidavit of **Davies Kutosi Wekhola**.

In reply and in opposition to the said application the respondent deponed an affidavit in reply sworn by **Natoolo William**.

The gist of the application is that applicants were appointed executors of the Will of the late **Fred Koloto**. They petitioned for Letters of Probate, but the respondent filed a caveat thereon. The applicants filed a civil suit No. 23 of 2013 to argue against the caveat.

In their affidavit under Paragraph 9 of this application, applicants allege that the respondent has been collecting rent on plots 18, Naboa Road, Plot 21 Kumi Road, Plot 59 Manafa Road and Lock up No. 58 on Kumi Road. Respondent has also been collecting Rent at the Bus terminal. In paragraph 13 it's alleged that no accountability to the estate has been done by respondent. It is alleged in paragraph 14 that if Respondent is not restraining there will be irreparable damage done to the estate since the estate is meant to benefit all beneficiaries. They prayed that an injunction doth issue to restrain respondent from further intermeddling with the estate, and to maintain the status quo.

In opposition to the above the respondent averred by affidavit in reply that he was not intermeddling in the estate. He stated in paragraph 15 of his affidavit that he is the one in possession of the estate property. In paragraph 5 he states that he was not employed by late **Koloto** but was a co-director. He specifically denied collecting any rent or lodge fees. In paragraph 14, he opposes the application as not being in the best interest of the estate.

This matter hinges on the desire to preserve the estate from waste, and acts of intermeddling. A reading of the pleadings shows that each party accuses the other of having committed this crime.

It is trite law that the estate of a deceased person must not be interfered with by anybody save a holder of Probate or Letters of Administration. (See Section 110 of Administrator General's Act) Cap. 157. (Section 11).

None of the two parties is a holder of such letters. None of them therefore has any right to intermeddle in this estate. (See Section 11 Administrator General's Act) Cap. 157- Laws of Uganda.

According to paragraph 7, 8, 9, 10, 12, 13 and 14 of the affidavit of **Davies Kutosi Wekhola**, and paragraphs 6, 7, 8, 9, 13 and 14 of the affidavit of **Natoolo William**, matters deponed to therein indicate various actions by different people. This court cannot keep a blind eye to an illegality once it is brought to its attention (see the Case of ***Makula International v. Cardinal Nsubuga (1983) HCB 13.***

The law recognises the need to preserve the status quo once it is shown that any property in a suit is in danger of being wasted, damaged or alienated by any party; the court may grant a temporary injunction to restrain such act; or make such other necessary orders to deems fit in order to prevent such waste until disposal of the main suit- per O. 41 rule 1 (a) and (b).

In this case it has been proved by affidavit that intermeddling has taken place and continues so to take place. Without going into the merits of the actual perpetrators of this ill, this court will grant this application, and save the estate from waste until finalisation of the main suit. I am in agreement with counsel for applicant that it is in the best interest of this estate, and all parties that this application is granted. I hereby grant this application, specifically against all parties to desist from

intermeddling with this Estate, to leave the status quo intact, and not do deal with the properties of the deceased in any way until further orders of this court. I so order.

Costs will abide the cause.

Henry I. Kawesa

JUDGE

17.04.2014