

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**[FAMILY DIVISION]**  
**FAMILY CAUSE NO.167 OF 2014**  
**IN THE MATTER OF AN APPLICATION FOR GUARDIANSHIP OF**  
**HANNAH NAMIRO**  
**AND**  
**IN THE MATTER OF AN APPLICATION FOR LEGAL**  
**GUARDIANSHIP BY SENVEWO TIMOTHY MISAERI KIZITO**  
**BEFORE HON. LADY JUSTICE CATHERINE**  
**BAMUGEMEREIRE**  
**RULING**

This Application for Legal Guardianship was brought for purposes of managing the minor's estate. The Application was made pursuant to Article 139 (1) of the Constitution of the Republic of Uganda, Ss 3 and 4 of the Children Act Cap 59, Ss.14 (1) and 33 of the Judicature Act Cap 13, S. 98 of the Civil Procedure Act Cap13 and O52 rules 1 and 3 of the Civil Procedure Rules by way of Notice of Motion supported by affidavit.

The Applicant prayed for orders that;

1. The Applicant be appointed Legal Guardian of Hannah Namiiro (A minor) in respect of land described as Kyadondo Block 185 Plots 4784 and 4785 at Namugongo.
2. Costs of the Application be provided for.

The Applicant, Timothy Misaeri Kizito Senvewo the biological father of the infant of Hannah Namiiro and the said infant are the registered proprietors of Kyadondo Block 185 Plots 4784 and 4785 at land situate at Namugongo.

The Applicant sought to be appointed Legal Guardian of the said child for purposes of disposing of Block 185 Plot 4785. The intended use for the proceeds of the sale is to develop Block 185 Plot 4784 in order to make it commercially viable and income generating. The Applicant stated that Court that the proposed sale would be beneficial for the welfare of the child Hannah Namiiro.

The infant Hannah Namiiro was 6 years at the hearing. She was born on 22<sup>nd</sup> December 2008 is enrolled at the Ark International School in Kololo.

Additionally, the Applicant further stated as the main bread winner in the home, he provides for the child's daily needs, educational, health and other social care. The sale would be for the welfare of the child.

S.33 of the Judicature Act Cap 13 empowers the High Court to grant such remedies and reliefs to any parties in a cause as the Court deems fit. The High Court therefore has powers to grant reliefs in circumstances such as where the law does not specifically provide for the rights of parents to act on behalf of the infant children.

The applicant in this case seeks to be appointed legal guardian of the infant in question in relation to infant's estate.

**The issue is whether this transaction undertaken in the best interest of the child and whether the child stands to benefit there from?**

Article 34 (1) b of the Constitution of the Republic of Uganda makes provision for what ought to happen while administering estates of infants. It is quoted here below:

**Article 34 (1) Welfare principle.**

Whenever the State, a court, a local authority or any person determines any question with respect to—

(a) the upbringing of a child and or

(b) the administration of a child's property or the application of any

income arising from it,

the child's welfare shall be of the paramount consideration.

In the administration of a child's property or application of any income arising from it the child's welfare shall be of the paramount consideration. In the case of Gabriel Kangwagye and Kate Kangwagye, High Court Miscellany No. 142 of 1993

Kireju J as she then was held:

The paramount consideration is the interest and welfare of the infants. The court has to look at the particulars of each case and decide whether the infant stands to benefit from the guardianship, in the present case the applicants are the natural parents of the minor children.

This Court has to determine if this application is beneficial to the infant any way.

Basing on the above provisions of the law and on the facts of the case now before this Court, I find that the Applicant Timothy Misaeri Kizito Senvewo who is the biological father of the child is the best placed person to manage his daughter's property and welfare. The said Applicant has made out a case as to why it is beneficial for guardianship to be granted to him in this instance. I find that there is beneficial interest that will accrue to the child arising out of the transactions on this land. I therefore find that this Application is in the best interest of the child and orders as follows:

1. The Applicant Senvewo Timothy Misaeri Kizito be and is hereby appointed Legal Guardian of the minor Hannah Namiiro for purposes of dealing in land at Kyadondo Block 185 Plot 4785 at Namugongo now registered in the names of the child Hannah Namiiro.
2. This Court grants specific Authority to the said Senvewo Timothy Misaeri Kizito to assign, dispose of and transfer in or to any other way transact in land comprised in Kyadondo Block

185 Plot 4785 situate at Namugongo on behalf of the minor Hannah Namiiro.

3. Further, the Applicant Senvewo Timothy Misaeri Kizito is ordered to give an account of the proceeds of the transaction undertaken to this Court in any case not less than six months after the transaction.
4. Further, the Applicant Senvewo Timothy Misaeri Kizito and the child's mother Rennie Margaret Kakande Senvewo shall be joined as joint proprietors with the infant Hannah Namiiro of land at Kyadondo Block 185 Plot 4784.

It is so ordered.

Catherine Bamugemereire

Judge.

5<sup>th</sup> December 2014