

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA  
[FAMILY DIVISION]**

**HCT-00-FD-FC- NO – 88 OF 2017**

**IN THE MATTER OF TAMALE JOSHUA, KAWUKI JOEL, AND TYABA  
JONATHAN FRANCIS**

**AND**

**IN THE MATTER OF AN APPLICATION FOR LEGAL GUARDIANSHIP  
BY SSENTOGO EDWARD FRANCIS**

**BEFORE: HON. LADY JUSTICE KETRAH KITARIISIBWA KATUNGUKA**

**RULING**

This is an application for Legal Guardianship brought under **Article 139** of the Constitution of the Republic of Uganda 1995, **Section 14** of the Judicature Act Cap 13, **Sections 1** and **3** and **Schedule 1** of the Children Act Cap 59, and **Section 98** of the Civil Procedure Act Cap 71 for orders that;

- i) Legal guardianship of Tamale Joshua, Kawuki Joel and Tyaba Jonathan is granted to Ssentongo Edward Francis in respect of creating, managing and administering the land comprised in Kyadondo Block 180, Plot 12140 at Namugongo.
- ii) The applicant be appointed legal guardian in respect of the education and planning needs of Tamale Joshua, Kawuki Joel and Tyaba Jonathan Francis.

The Application is supported by affidavit of the applicant. The Birth certificate of the children and the title deed which is in the name of Shanon Semanda, the biological mother of the minors and the names of Tamale Joshua, Kawuki Joel and Tyaba Jonathan Francis the minors, are attached.

The grounds of the application are contained in the affidavit of the applicant but briefly are that; the applicant has custody of the minors and he caters for all their

needs; the applicant is the one who registered the land into the names of the children and their mother; the applicant wishes to secure a loan to construct rentals to cater for the needs of the children.

5 The applicant is represented by Counsel Bumpenje Christopher, who submitted that the application is specifically for the welfare of the children.

Mr. Ssentongo, the applicant testified on Oath that the children stay with him and that according to an agreement for the purchase of the land in question, he bought it. This was confirmed by Ms Semanda the mother of the minors.

10

### **Decision of Court**

I have carefully considered the application the affidavit in support, the copy of the title deed, the birth certificates attached, I have also listened to the testimony of the applicant and Ms. Semanda biological mother to the minors; the facts are that the  
15 applicant bought land and registered it in the names of Semanda Shanon and the minors Tamale Joshua, Kawuki Joel and Tyaba Jouathan. All children of the applicant; that applicant takes care of the children's needs including school fees as per respect of Joshua Tamale and Joel Kawuke, that the mortgage the property for building loan for rentals for the welfare of the children. The application is supported  
20 by the biological mother of the children who is also the joint registered proprietor together with the children.

The issues for resolution are;

- (i) Whether this court has jurisdiction.
- 25 (ii) Whether the application should be granted.

## Issue 1

### **Whether this court has jurisdiction to entertain this matter**

Article 139 of the Constitution of the Republic of Uganda 1995, Section 98 of the Civil Procedure Act Cap 71 and Section 14 of the Judicature Act Cap 13 give this  
5 court powers to entertain applications of this nature. This court therefore has jurisdiction to entertain this application.

## Issue 2

### **Whether this Application should be granted**

10 **Section 1(i)** and **Section 3** and the 1<sup>st</sup> schedule to the Children Act, Cap 59 provide that in addressing issues concerning children their welfare is the paramount consideration. Courts have fortified this in the case of **Joyce Deborah Alitubera and in the matter of Richard Masaba CA No 70 & 81 of 2011.**

15 The Applicant bought the land for the children in their best interests; he intends to add value to the land by constructing rentals still in the interest of the children; the children are not able to secure the loan because they are minors and cannot contract; and they would be unable to pay the loan which the applicant is able to pay. This court is convinced that the application is the best interests of the children and  
20 therefore should be granted.

In summary this court is seized with jurisdiction to entertain this matter, and the application is in the best interests of the minors,

I therefore, make the following orders.

25 (i) An Order for the Legal Guardianship, Tamale Joshua, Kawuki Joel and Tyaba Jonathan Francis is granted to Sentongo Edward Francis in respect of managing and administering the land comprised in Kyadondo 185 plot 12140, land at Namugongo.

- (ii) The Order of Legal guardianship as detailed shall be solely for the welfare of the children Tamale Joshua, Kawuki Joel and Tyaba Jonathan Francis.
- (iii) The applicant shall bear the costs of this application.

5

**KETRAH KITARIISIBWA KATUNGUKA**  
**JUDGE**  
**19/4/2018**

10