

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(FAMILY DIVISION)
MISCELLANEOUS APPLICATION NO. 566 OF 2017
(ARISING FROM ADM CAUSE NO. 346 OF 2017)

**IN THE MATTER OF AN APPLICATION BY EDWARD MATOVU
MULUBIRIZI, HELLEN KIKWANGA NGUYIRA, JOHN BWANIKA DDUNGU
& JOHN BAGABIRWA FOR REVOCATION OF LETTERS OF
ADMINISTRATION GRANTED TO JANE NAMAYEGA AND NDAGIRE
GONZAGA.**

AND

**IN THE MATTER OF AN APPLICATION FOR A CITATION TO RETURN THE
LETTERS OF ADMINISTRATION.**

AND

IN THE MATTER OF THE ESTATE OF THE LATE MUYINGO EXPERITO

BEFORE: JUSTICE GODFREY NAMUNDI

RULING

This is a citation seeking to return Letters of Administration granted to **JANE NAMAYENGA AND JANE GONZAGA NDAGIRE** in respect of the estate of the late **REBECCA NANYONGA NAKIBUUKA NAZZIWA** formerly of Busega Rubaga Division, Kampala District.

The citation was supported by the statement of oath sworn by John Bwanika Ddungu (3rd Applicant) which contains the grounds.

The Respondent filed an affidavit in reply in opposition of the application.

Decision of court

I have carefully perused the 1st Applicants' statement on oath, the affidavit in support and reply. Counsel's submissions, including the law Applicable.

According to the Tristram and Coote's probate practice 23rd Edn at page 533;

"A citation is an instrument issuing from the principal probate registry under the seal of the court and signed by one of the registrar containing recital of the reason for its issue and the interest of party extracting it. Calling upon the party cited to enter appearance and take the steps therein specified with an imitation of the nature of the order. The court is asked to and may make unless good cause is shown to the contrary. The statement of fact set out in the citation ought necessarily to be supported by either a statement on oath or an affidavit of the Plaintiff".

In the instant case the 3rd Applicant stated that the applicants Jane Namayega and the co administrator obtained letters of administration

irregularly and in bad faith with the intention to disposing of the estate by sale to the detriment of the rightful beneficiaries.

That Jane Namyega (Respondent) is not in possession of the titles to the suit land that there's a looming danger that the whole estate can be alienated. That a one Juliet Nuwagaba found a one Dr. Kibuka Musoke delivering construction materials on the land claiming he bought it from the 1st Respondent (Namayega) part of the land. That the perimeter wall erected over the said land/premise by Juliet Nuwagaba the rightful beneficiary was pulled down by the Respondents and their agents. They went on to assault and destroy properties of the occupants on the suit land/premises whereby cases of malicious damage, assault and criminal trespass were reported at Natete Police Vide SD-74-28-11-18.

That Respondents' subdivided and transferred the land comprised in Block 21 Plots 92-94 at Busega into their names and are at advanced stages of vacating a caveat earlier lodged by the Rev Father Kyeyune-Brother to the late Rebecca Nanyonga. That he was informed by Nuwagaba Juliet that Respondents are in the process of disposing parts or the whole of the estate of which the true beneficiaries will lose their share of the estate unless the powers and the action of the Respondents are stopped forthwith. That therefore in order to preserve that part of the estate it is just and equitable that a citation recalling

the letters of administration of the late Nanyonga Naikibuka Rebecca is issued.

In the response of Jane Namayega, she stated that letters of administration in respect of the estate of the late Nakibuuka were granted to her and Gonzaga Ndagire jointly after a consent, renunciation of grant by the Administrator General and the Certificate of No Objection. That she has never committed any fraud in the estate.

That the titles are not in custody of her advocates as alleged, the land sold Dr. Kibuuka Musoke on 1/2/2008 is part of the share of Sebastian Kiboneka got from the estate of his late mother Nakibuka not for Edward Elue. That Nuwagaba Juliet is not a beneficiary to the estate of the late Nakibuuka's estate. That in September 2017, Nuwagaba Juliet entered upon the land which Jane Namayega share with Sebastian Kiboneka, cut and destroyed crops and toilet hence leading to filing Civil Suit No 073 of 2017

That the intention of Juliet Nuwagaba is to evict her and Sebastian Koboneka who is under her care from the area of the land at Busega which they got as a share from the estate of Late Nakibuuka.

That the Applicants have no right to take over part of the land at Busega which formerly belonged to late Nakibuuka since it belongs to her and Sebastian as provided in the deceased's will.

That she has never refused to sign transfer instruments in favour of the children of Edward Elue Ssembuzi for the portion of land at Busega.

That the applicants have no just cause for taking out citation for recalling the grant.

According to the evidence adduced it appears there's a serious wrangle between the parties which have culminated into criminal cases emanating from the letters of administration granted to the Respondents.

It's my opinion that the estate will be put at a risk of being wasted, if the grant of letters of administration is left under custody of the Respondents. They will continue to use the same to deal with the estate in any way he deems fit, like they have done before which is to the detriment of the beneficiaries.

It is therefore necessary for this court to order the Respondents to return the grant of letters of administration before determination of the dispute between the parties.

I hereby order that the Respondent **JANE NAMAYEGA AND NDAGIRE GONZAGA** return and leave in this court the letters of administration Vide Administration cause No. 0057of 2015.

GODFREY NAMUNDI
JUDGE
DATE: 26-06-2020