

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA
FAMILY DIVISION
MISCELLANEOUS APPLICATION NO. 0289 OF 2020
(Arising from Administration Cause No. 0442 of 2015)

KEMIREMBE WINNIE:..... APPLICANT

VERSUS

NALULE JUSTINE:..... RESPONDENT

Before: Justice Ketrach Kitariisibwa Katunguka

RULING

Introduction:

- 1.** Letters of Administration for the estate of the late Najjuma Elizabeth were on 26/10/2017 granted to Nalule Justine and Nabukalu Winnie; vide Administration Cause No. 422 of 2017;
- 2.** The two administrators now bring this Application for orders to have Nalule Justine removed from the Letters of Administration leaving Nabukalu Winnie who, as the 2nd Applicant, seeks orders that instead of her names being reflected as Nabukalu Winnie, they be instead indicated as Kemirembe Winnie;
- 3.** The Application is supported by: the Affidavit deposed by Nalule Justine; a supplementary Affidavit filed on 15/12/2022 deposed by Omusse Justine where the following are attached; Republic of Uganda National Identity Card NIN: CF560911040DYL; a Republic of Uganda Electoral Commission Voters Card No.



11749852; and Republic of Uganda Passport No. UGA A00326580; and a supplementary affidavit deposed by Kemirembe Winnie filed on 15/12/2022, where the following are attached: a statutory declaration dated 8/12/2022, a Republic of Uganda National Identity Card NIN: CF80055106DH9C and a Republic of Uganda passport No. UGA B04626608;

Representation;

The Applicants are represented by Tumwesigye Wycliffe;

4. On the 11/4/2023 when the matter last came up both applicants were in court; Counsel informed court that Justine Nalule has health issues that is why she is stepping down from being a co administrator with Winnie Kemirembe leaving the said Winnie Kemirembe to remain sole administrator; that the letters of Administration shows Nabukalu Winnie but her National Identity Card shows Winnie Kemirembe so she wants the Letters of Administration to indicate her names as per National Identity Card;
5. Nalule Justine Omusse on oath told court she is holder of NIN CF560911040DK, that the 2nd Applicant Winnie is the one who took the big house; the Boys quarters had two rooms – one was given to her (the 1st applicant's) siblings; the vacant land had been given to her siblings and after their death their children took it; and she is the one who built the house for her mother Najjuma Elizabeth; the 2nd Applicant was put in Najjuma's Will as Winnie Nabukalu; that Kemirembe is a Christian name which she the 2nd Applicant added later.;
6. Counsel for the Applicants prayed to be allowed to file supplementary submissions in view of the supplementary affidavits; court directed that Counsel files an original



death Certificate and then file submissions by 25/4/2023; ruling was to be delivered by 31/5/23. No death certificate has been filed, and the Counsel never filed supplementary submissions as directed;

7. I shall consider the Application and submissions on record; Counsel framed one issue; *Whether the Applicants are entitled to the remedies sought*; Counsel cited section 33 of the Judicature on this court's powers to make orders as it thinks just;

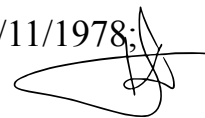
Determination.

The case.

8. Nalule Justine and Nabukalu Winnie were jointly granted Letters of Administration for the estate of Najjuma Elizabeth; the applicants seek orders that the 1st applicant relinquishes her position as co administrator with the 2nd applicant for health reasons; the petitioners then had identified themselves -for Nalule Justine, by her National Identity Card No. CF560911040DJL showing she was born on 01/01/1956 while Nabukalu Mirembe Winnie identified herself by Passport No 1130255 showing date of birth as 15/11/1979;

The issue for determination is *Whether the application should be granted.*

9. The applicants in this case are identified by a voter personal ID. No. 11749852 showing Nalule Justine's date of birth as 01/01/1956, a Ugandan Passport and National Identity card showing Omusse Justine having been born on 15/11/1956; a National Identity card of Kemirembe Winnie having been born on 15/11/1980 and a Passport of Nabukalu Mirembe Winnie showing date of birth as 15/11/1978;



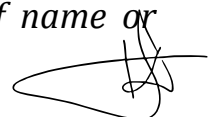
10. Section 36(1) of the Registration of Persons Act, 2015 (Act 4 of 2015)

provides: *‘Any person, being over the age of eighteen years or a widower, widow, divorced person or a married person, who wishes to change his or her name, shall cause to be published in the Gazette a notice in the prescribed form of his or her intention to do so’; section 36(2) provides; ‘Not less than seven days after the publication of the notice, the person intending to change his or her name may apply in the prescribed form to the registration officer of the registration center in which his or her birth is registered’; while section 36(3) provides; ‘The registration officer shall, upon being satisfied that the requirements of this section have been carried out and upon payment of the prescribed fee, amend the register accordingly and shall sign and date the amendment.’(emphasis supplied).*

11. A name defines a person so change of definition can never be done in secret and a grant for letters of administration is a court order and a public document giving certain rights and duties to be executed in rem; for such an instrument to be amended court ought to be convinced that the person seeking the amendment is genuine; ***In Hashim Sulaiman V. Onega Robert Court Of Appeal Civil Appeal No 001 Of 2021***; court stated that *“The change of names formality should therefore be considered as necessary for amendment to the register and is necessary to avoid confusion as to the particulars of persons registered... A Deed poll giving the assumed names can be made by an adult leading to the amendment of the register.”*;

12. In Achola v Electoral Commission (Election Petition No. 2 of 2018) [2018]

UGHCEP 1 (13 July 2018) court stated that *“In absence of a proper deed poll by the petitioner, a statutory declaration could not explain a change of name or*



addition of a name. Statutory declaration would only be applicable in cases of misspelling of names;

13. In this case there is nothing to show that the names were changed for no Deed Polls were adduced, although they were alleged; a Statutory Declaration should only declare what has happened but no change of names has happened for both applicants to connect them to the holders of Letters of Administration granted by this court on 26/10/2017 vide AC 422/2017 for the estate of late Elizabeth Najjuma;

14. Section 101 of the Evidence Act provides that he who alleges must prove; section 33 of the Judicature Act cited by counsel only works where there is justification; I have not found any; the discrepancies in names and dates of birth coupled with failure to present evidence of change of names and the death certificate of the late Najjuma Elizabeth have left me wondering if the applicants are who they say they are; I am not convinced that this application has merit;

In the premises the application is hereby dismissed.



Ketrah Kitariisibwa Katunguka.

Judge

8/06/2023

Delivered by email to: wymwesigye@gmail.com