

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
MISCELLANEOUS APPLICATION NO. 55 OF 2013
(Arising From Civil Suit No.28 Of 2013)

SSEBAGGALA KIMULI JAMES ::::::::::: APPLICANT/ PLAINTIFF

VERSES

1) NAKUBULWA SARAH 2) KAKANDE NOHU 3) KAWOOYA ABDU DEFENDANTS 4) KALULE HASSAN 5) NABAGULANYI NUSULA	}	::::::::::::::::::	RESPONDENTS/
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RULING BY HON. MR. JUSTICE JOSEPH MURANGIRA

The applicants through his lawyers Nsibambi & Nsibambi Advocates brought this application against the respondents under Order 41 rules 1, 2 and 9 of the Civil Procedure Rules seeking the following orders; that:

- 1. Temporary Injunction does issue restraining the Respondents from entering upon the suit land at Mutugga Lwadda “A”, threatening, evicting or in any way interrupting the Plaintiff’s use of the suit land measuring approximately 7 acres and /or demolishing any erected structures or building of the applicant until the main suit is heard and finally disposed off.**

- 2. Costs of the application be provided for.**

This application is based on the following grounds that:-

- (a) There is a pending civil suit before this Court touching the land in issue.**

- (b) That the disputed land is in danger of being wasted, damaged and /or alienated by the continued acts of trespass of the respondents upon it.**
- (c) That the applicant will suffer irreparable injury if this application is not granted.**
- (d) That it is in the interest of justice that the respondents be restrained from any continued trespass upon the suit land until the main suit is finally determined.**

Before resolving the issue at hand, allow me to make some observations.

During the pendency of the ruling in this application, Hon. Rosemary Nansubuga Seninde, MP Wakiso District, on 18th March, 2013 made complaints against the Assistant Registrar to the Inspector of Courts in respect of this suit HCCS No. 28 of 2012. In her letter that carried the complaint she stated; that:-

“The plaintiff and his lawyers did not serve any process on the defendants with a view to blocking them from telling Court the truth about this land. They have resorted to using the senior Police Officers to threaten and intimidate the helpless, the widow and her family.

The purpose of this letter is to request you kindly to halt any process of Court for time being that your office can investigate the misconduct of the plaintiff and his lawyers as well as the judicial officers involved in this unfortunate episode of daylight robbery of property of the poor”.

Her letter of complaint is copied to High ranking offices; I don't know for what purposes.

On receipt of the letter from the said Hon. Member of Parliament, Wakiso District I perused **Miscellaneous Application no. 56 of 2013, Ssebagala Kimuli James vs Nakubulwa Sarah, Kakande Nohu, Kawooya Abdu, Kalule Hassan; and Nabagulanyi Nasula**; an application for an interim order

of an injunction. There is an affidavit of service that filed on Court record showing that those complainants in those letters/respondents were duly served with the Court process. An affidavit of serve to that effect was filed on the Court record. The matter upon proof of service by the Assistant Registrar, proceeded experte. The Assistant Registrar of this Court heard the said application and granted remedies to the applicant.

In the same vein, in this instant application still the respondents were served and opted to ignore the processes of the Court. May be, I do advise Hon. Rosemary Nansubuga Seninde, MP Wakiso District to always upon receiving such complaints to make a follow up with Court. In that process we shall not receive or get allegations from such people against judicial officers.

Consequent to the above, 12th March, 2013, when this application came up for hearing, the respondents despite being served with the Court process, neither filed affidavits in reply to the application nor appeared in Court on the day of the hearing this application. In that respect the applicant's application by the order of this Court proceeded expert.

This exparte application for a temporary injunction is brought under Order 41 rule 1 as well as rule 9 of the Civil Procedure Rules seeking for orders that a temporary injunction be issued restraining the respondents /defendants, Agents, or anyone else claiming after them from entering upon the suit land, threatening, evicting or in any way interrupting the Plaintiff's use of the suit land/ kibanja at Matugga Lwadda "A" until the main suit is heard and fully determined by this Court. The application is supported by an affidavit of **SEBAGGALA KIMULI JAMES** the applicant therein. The respondents despite being served with copies of the Chamber Summons did not file affidavits in reply to oppose the application. Wherefore, this application stands unopposed by the respondents.

Further, I have perused this application and the affidavit evidence in support of this applicant and considered the submissions by counsel for the applicant and I am satisfied that:

- (a) The applicant showed a prima facie case with a probability of success. There are serious questions to be determined between the parties.
- (b) The applicant if a temporary injunction is not granted he is likely to suffer damages which cannot be atoned by an award of damages.

And, therefore, in the premises, this application has merit. It is accordingly allowed in the orders being sought therein with no orders as to costs.

Dated at Kampala this 26th day of March, 2013.

sgd
Murangira Joseph
Judge