

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**LAND DIVISION**  
**MISCELLANEOUS APPLICATION NO. 1405 OF 2016**  
**(ARISING OF MA NO. 477 OF 2015)**  
**(ITSELF ARISING FROM CS NO. 255 OF 2015)**

**FREDRICK KABUGO SSEBUGULU  
SUING AS ADMINISTRATOR OF  
THE ESTATE OF THE LATE  
SSEBUGULU FREDRICK**

..... APPLICANT

**VERSUS**

**1. KATENDE RONALD  
2. NAMIREMBE SHAFINAH MARIAM  
THROUGH HER ATTORNEY  
KATUMBA SARAH  
3. LUKWEBE RONALD TRADING AS  
MPIIMA ASSOCIATES**

.....RESPONDENTS

**BEFORE: HON. MR. JUSTICE GODFREY NAMUNDI**

**RULING**

This application was brought under the provisions of **Section 98 Civil Procedure Act**, **Section 33 of the Judicature Act** and **Order 52 Rules 1, 2 and 3 of the Civil Procedure Act**.

It seeks:

- i. A declaration that the Respondents have acted in contempt of the courts Temporally Injunction issued on 29<sup>th</sup> November, 2015 restraining the parties from alienation by sale, transfer

or changing ownership or status quo until civil suit 89 of 2006 and 255 of 2015 have been finalised.

- ii. The Respondents be punished by payment of a fine of Sh. 500,000,000/= or payment of exemplary and printive damages of Sh. 500,000,000/=.
- iii. Costs of the application.

Wading through the voluminous and to me unnecessary wordy, repetitious pleadings and submissions by both parties. The following summary of facts and events becomes clear. The Temporally Injunction was in respect of Civil Suits 89/2006 and 255/2015.

There is also in existence Civil Suit 443/15 in which a consent Judgment was entered which the Respondent proceeded to execute. The issue in contention is that the Respondents should not have gone ahead to execute the Consent Decree in Civil Suit 443/2015 well knowing the existence of the Temporally Injunction order.

There are allegations by the Applicant that the same suit land, Plot 834 was fraudulently mutated by the 1<sup>st</sup> Respondent in contempt of an earlier Injunction to create plots 1222, 1221 and 1220. The Respondents claim what was executed was a consent Judgment over Plot 1222 Block 28. It was based on a Decree passed on the 11<sup>th</sup> day of September, 2015.

The said Decree came earlier than the Injunction the subject of the Instant Application. The Injunction was specific to Civil Suits 89/2006 and 255 of 2015. Apparently the alleged mutation was even carried out earlier than the Injunction and could therefore not have been done in contempt of the Temporally Injunction Order. The pleadings and affidavits are clear for all to see.

It would have been the better procedure to challenge the Judgment that gave rise to the Consent Decree rather than filing contempt proceedings against the execution of a Judgement of court. A

Judgment by a competent court of law can only be challenged through the known procedures of Appeal, Review or setting aside.

It would be setting a dangerous precedent to find the successful party in such a Judgment in contempt of court in different proceedings that were not before that court. If the said Judgment was obtained through unlawful or fraudulent means, that can only be subject or issue through the procedure I have outlined above.

It is my finding that the proceedings for contempt of court in the instant application are uncalled for and are not properly before this court.

The application is struck out for being incompetent.

Dated at Kampala this **14<sup>th</sup>** Day of **February, 2017**.

**GODFREY NAMUNDI**  
**JUDGE.**