

Preserving the status quo means preserving the subject matter pending the determination of the controversy.

In Sekitoleko versus Mutabazi & Ors (2001-2005) HCB 79, it was stated that;

The status quo does not refer to who owns the suit property, but refer to the actual state of affairs that pertain on the suit premises prior to filing of the main suit.

From the above position and arising from the evidence as deduced from the affidavit of Mutabaruka Innocent, under (paragraphs 2,3,4,5,6,7 and 8) thereof, there is a *status quo* to protect. The *status quo* is that the Applicant claims that he own 4 (four) acres of land at Kirinya on which the Respondents have trespassed. Therefore the Applicant's possession needs protection.

2. Prima facie case

It is a condition that before the Applicant is granted an injunctive relief, he must prove that there is a *prima facie case* with a probability of success. To prove this, Court must be satisfied that the suit is not *frivolous or vexatious*, and that there is a serious question to be tried.

This principle is laid out in various authorities like **American Cynamid versus Ethicon Limited [1975] ALL ER 504 and Kiyimba Kagwa versus Abdu Nasser Katende (1987) HCB 43.**

In this case, the affidavit of Mutabaruka Innocent contains evidence showing that the Respondents have illegally sold off parts of the suit land (paragraphs 4, and 5); and have also trespassed thereon. (Paragraphs 6,7,8,9 and 10) of the said affidavit.

At this stage, this Court does not need to divulge into the merits of the main suit. However, the evidence shows that there are triable issues.

A *prima facie case* is accordingly proved.

3. Irreparable damages:

The Applicant has to prove that he will suffer injury with no possibility of repair by compensation in damages. He, (Applicant), has shown that the land in issue is prime and he has emotional attachments to it (see paragraphs 10 and 11).

There is proof that the Respondents are plotting the land and selling to other people who in turn have trespassed and put thereon illegal structures.

All this in view of the value of the land in question, and type of structures, the Respondents have thereon, makes it unlikely that the Respondents can compensate the Applicant by way of damages. This condition is also satisfied.

Having found as above, I do not need to consider the balance of convenience. I do find that the Applicant has proved the application.

It is granted with costs in the cause.

I so order.

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Henry I. Kawesa

JUDGE

26/2/2018

26/02/2018:

Mr. Lubega Budhala for Applicant present.

Applicant absent.

Respondents;

2nd Respondent presentⁱ

6th Respondents present.

5th Respondent present.

Court: Ruling given to the parties above.

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Henry I. Kawesa

JUDGE

26/2/2018

