

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA

LAND DIVISION

MISC. CAUSE NO. 94 OF 2020

KAKOOZA LAWRENCEAPPELLANT

VERSUS

1. FULASIKA NANYONDO
2. YOZEFINA NAKAWESI
3. HAJJAT ZIYADA NAKAJUMBA RESPONDENTS

BEFORE: LADY JUSTICE ALEXANDRA NKONGE RUGADYA

RULING:

Introduction.

This application was filed by Mr. Kakooza Lawrence seeking orders For:-

1. the respondents show cause why the caveat which the respondents lodged on the applicant's land comprised in **Mailo Register Mengo 195 Plot 523** situate at Kyanja should not lapse;
2. the respondents' caveat be removed from the applicant's land;
3. the respondents be permanently restrained from lodging any other caveat on the applicant's land;
4. Misc. Application **No. 147 of 2020** lodged on the applicant's title in pursuit of the caveat lodged be removed.
5. The respondent pays compensation/damages to the applicant for lodging the aforesaid caveat without lawful /reasonable cause.
6. The respondents pays costs of this application.

The application was supported by affidavit of Mr. Kakooza Lawrence, the applicant, briefly that:-

The applicant is the registered proprietor of land comprised in Mailo Register **Mengo Block 195 Plot 523** situate at Kyanja.

That on 25th June 2010, under instrument **KLA 459644** an interim order of injunction **MA. No. 147 of 2010** was lodged on the applicant's title as a result of a caveat and claims of the respondent presented at the land office and a case filed in Nakawa High Court.

The applicant therefore claims that respondents have no legal or equitable interest in the said land and wrongly caveated it/incumbered it.

As directed by this court on 16/9/2020, the application was served to **M/S Bemanyisa & Co. Advocates** on 21/9/2020, who acknowledged receipt. In his affidavit in reply, dated 5/10/2020 he deponed that he had full knowledge of the facts surrounding High Court **Miscellaneous application No. 147 of 2010** formerly at Nakawa High Court circuit.

He admitted that the respondents had secured the above interim order through his office and the same had been registered as a caveat over land comprised in Kyadondo Block **195 Plots 161, 715, 717, 719, 721, 718, 474, 475, 488, 489, 493, 518, 523, 702, 614 and 615** as alleged beneficiaries of the estate of the late Fulanswa Nsitekadiwa Walusimbi.

The said caveat was registered under instrument **No. KLA 457201** over the above plots of land including land, of the applicant comprised in plot **523 Block 195** at Kyanja.

However that the main application for a temporary Injunction **MA No. 147 of 2010** was dismissed for lack of cause of action, making the above caveat therefore redundant and over taken by events.

That as an officer of court he was aware that respondents had no interest in the suit land otherwise they would have pursued their suit land to its logical



conclusion, which they did not, because of its dismissal in 2010 by the learned trial judge Hon. Justice Joseph Murangira as the then trial Judge.

As the handling lawyer he never extracted the dismissal order of **MA 147 of 2010** and attempts to retrieve one from the High Court archives had been futile. He therefore expressed no objection to the application.

As his evidence, the applicant presented the original of the title comprised in **Block 195 Plot No. 523 land at Kyanja measuring 0.040 hectares**. It indicates that he got registered on the title on 6th August, 2008 and there are no existing encumbrances registered on that title.

Accordingly this application is allowed in the terms below.

1. *the caveat lodged on land comprised in Mailo Register **Mengo 195 Plot 523** situate at Kyanja ia hereby vacated.*
2. *the respondents are permanently restrained from lodging any other caveat on the applicant's land;*

Section 142 of the RTA stipulates that any person lodging any caveat with the Commissioner, without reasonable cause, shall be liable to make compensation to any person who may have sustained damage by the lodging of the caveat such compensation as the Court may deem just.

I would accordingly award a sum of **20,000,000/=** as compensation to the applicant.

The respondents shall pay for the costs of this application.


Alexandra Nkonge Rugadya

JUDGE

28/10/20.