

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

MISCELLANEOUS APPLICATION NO. 1720 OF 2019
(ARISING OUT OF CIVIL SUIT NO. 659 OF 1998)

PATRICK MULONDO

(Suing as the surviving Legal Representative of Emmanuel
Wasajja (Deceased) :.....)

APPLICANT

VERSUS

FREIGHT FORWARDERS (U) LIMITED:..... RESPONDENT

Before: Lady Justice Alexandra Nkonge Rugadya

RULING:

Introduction:

This application is brought against the respondent, Freight
Forwarders (U) Ltd, under **section 98 CPA 0.9 r 18 CPR, 0.52 r 1
& 2.**

It is seeking to move this court to set aside the dismissal order in
Civil Suit No. 659 of 1998 on the grounds that the applicant was
not informed about the date when this matter came up.



The application is supported by the affidavit of Mr. Patrick Mulondo, purporting to be the surviving legal representative of the late Emmanuel Wasajja.

- 5 In brief, the contention is that the application's former lawyers **M/s Sekabanja & Co. Advocates** who extracted hearing notices for **Civil Suit No. 659 of 2018** did not inform the applicant of the date of hearing; and not attend court which therefore dismissed the case for lack of prosecution.

10 **Consideration of the issue:**

The underlying principle is that where a suit is dismissed for non-appearance of either party to the suit, the plaintiff may, subject to the law of limitation bring a fresh suit or apply to court to set aside the dismissal.

- 15 Court noted however in the instant case that the dismissal order was made on 28th June, 2019 for a suit that had been filed in 1998, had been in the court system for more than two decades; and over which no appropriate steps had been taken by the paintiff to have t prosecuted.
- 20 Also noted was the fact that this application was filed by a person who claims to be a legal representative of the estate of the late Emmanuel Wasajja.

Neither did he attach any such authority to this application nor did it appear anywhere in his affidavit that he filed the application in his capacity as the legal representative.

5 Besides also was the fact the purported applicant's submissions were filed on 11th September, 2020 outside the time and date as directed by this court on 7th September, 2020. There is nothing to show that the applicant sought extension of time to file the said submissions.

10 This application therefore fails on the ground that it is improperly before this court and is hereby struck out. Since the respondent did not file any reply, no costs are awarded.


Alexandra Nkonge Rugadya

Judge

15 **2nd March, 2021.**