

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
MISCELLANEOUS APPLICATION NO 273 OF 2020
(ARISING FROM CIVIL SUIT NO. 199 OF 2013)

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NDAGIRE NULU & ANOTHER.....APPLICANT

VERSUS

10 **ASANASIO NABAMBA KACHWANO.....RESPONDENT**

Before: Lady Justice Alexandra Nkonge Rugadya:

RULING:

15 **Introduction:**

This application seeks reinstatement of the main suit, vide **HCCS No.199 of 2013 which this court had dismissed for want of prosecution**. The application was brought under **order 9 rule 23 of the CPR**.

20 It is supported by the affidavit of Ms Nulu Ndagire, who depones that she had sufficient cause for nonappearance when the matter was called for hearing in 2019. Details of the grounds of the application are on record.

25 The applicant refers to the **Annextures A, B**, attached to her affidavit. These were correspondences to court made by her counsel, **M/S Geoffrey Nangumya & Co. Advocates**, as her demonstration that attempts were made through her counsel, between 2018 and 2020, indicating that she was still interested in pursuing the case. This court had also issued a hearing notice on 27th December, 2020 (**Annexure c**). The firm of **M/S Kafuko Ntuyo & Co. Advocates** had duly received the notice on 12th February, 2020 for the hearing date of 21st February, 2020. However the firm's response endorsed on the notice had been that they had lost touch with the respondent.

In relation to this application, and as per affidavit of service filed 9th March, 2021 service had been made at the respondent's home on 9th March, 2021 in Kalagala, Luweero.

The respondent did not file a reply to the application. However, the firm of **M/S Isabirye & Co. Advocates** filed submissions in reply on 6th April, 2021, which submissions I will reject, for three good reasons.

In the first place, the submissions were filed on 6th April, 2021, more than two weeks after the date on which the reply/submissions were supposed to have been filed, as per directives of court issued on 5th March, 2021.

Secondly, there was no affidavit in reply in opposition to the application. Thirdly, it also struck this court that the said firm did not file any notice of instructions from the respondent as required by law. Court would presume in those circumstances that **M/S Isabirye & Co. Advocates** was not duly instructed to represent the respondent.

I will therefore consider this application as unopposed and accordingly grant it, with no costs awarded.


Alexandra nkonge Rugadya

Judge

10th June, 2021

*Delivered by email
16/6/2021*