

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
CIVIL SUIT NO.511 OF 2016

5 **KASOZI WILLIAM PLAINTIFF**

VERSUS

10 **1. EDWARD MUKASA**

2. KOIRE DENNIS.....DEFENDANTS

Before: Lady Justice Alexandra Nkonge Rugadya

JUDGMENT

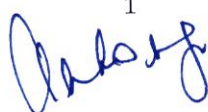
15 At today's hearing, counsel representing the defendants in this suit sought to have this suit dismissed with costs for the plaintiff's failure to proceed with the hearing of this suit.

Back ground:

By way of brief background the plaintiff, Mr. William Kasozi filed this suit against the defendants seeking a declaration (among others) that he is a lawful owner of 40 decimals of land comprised in **Busiro, Block 397, plot 85, land at Bweya Central Zone.**

20 The 1st defendant, Mr. Edward Mukasa however denied the claims, contending that what he sold to him out of that land was only 150 ft by 50ft. That he later sold 46ft by 65ft by 41ft by 69 ft to Mr. Koire Dennis, the 2nd defendant who took immediate possession of the land.

25 The suit was dismissed on 21st August, 2021 by this court for want of prosecution. An application was filed by the firm representing the plaintiff vide **MA No. 1336 of 2019** for reinstatement. As per letter dated 13th September, 2019 by **M/s the Capital Law Partners & Advocates** (representing the 1st defendant at the time) addressed to the Managing partner **M/s Obed Mwebesa and Associated Advocates**, representing the plaintiff a reminder was made that this suit had been dismissed for want of prosecution but later reinstated by consent of the parties.



M/s the Capital Law Partners & Advocates in that letter requested **M/s Obed Mwebesa and Associated Advocates** to share the draft scheduling memo for their input as well and to serve them with the witness statements within one week from date of receipt of letter, to enable the fixing of the matter and expeditious disposal of the case in interest of justice.

- 5 **M/s Obed Mwebesa & Associated Advocates** acknowledged receipt of that letter on 13th September, 2019. They filed witness statements on 23rd September, 2019 as well as draft scheduling memo and on 25th March, 2021 filed the plaintiff's trial bundle. The matter was set for today and set for hearing and all parties were aware of this date.

10 However, counsel Akakimpa Godfrey who appeared for the plaintiff was not ready to proceed on account of the fact that he was not feeling well. He informed court they had complied with its directives to file the required documents, that is, the witness statements; JSM and Trial Bundle.

This court notes that the suit was filed in 2016 initially by the firm of **M/s Niwagaba & Mwebesa Advocates**. Mr. Obed Mwebesa who had personal conduct of the case apparently changed from that firm and later formed his own firm, but continued with the case. The same counsel has
15 since filed his own witness statement while still representing the plaintiff.

It is not known whether or not Kateregga, Mwebesa and Akakimpa all representing the plaintiff were from the same firm, or different firms. There is no notice filed for a change of instructions. Mwebesa's absence as the counsel for the plaintiff was not explained to help court understand how he was going to continue representing his client when he is also a witness at the same
20 time.

Akakimpa requested that the matter be given other dates for hearing. David Kasadha for the 1st defendant and his client, the 1st defendant and Francis Kasoro representing the 2nd defendant were all present in court who were ready to proceed however objected, rightly so, to the adjournment.

- 25 The objections were premised on the ground that this matter had been in court since 2016. They expected that out of courtesy, prior notification ought to have been given by the plaintiff or his counsel.

Furthermore that no attempt had been made to explain why the plaintiff himself was absent. Court was also reminded that this matter had been dismissed in 2019 for want of prosecution,
30 but later reinstated by consent of parties.



As noted by court, all the trial documents were filed in court ready for the hearing. The only available date if court were to allow the adjournment sought however was in February, 2023, and this for a matter that had been fixed in 2016.

5 Mr. Akakimpa's excuses with all due respect could not satisfy court as to why the plaintiff who has interest in ensuring that his case is heard expeditiously and his rights determined, wanted further extension of the trial.

Where a suit is dismissed after two years for want of prosecution; reinstated by consent of all parties; re-fixed for hearing but fails to take off again on account of the plaintiff's own inability to proceed, it becomes difficult to justify any further adjournment.

10 Justice delayed is justice denied. For those reasons I therefore decline to grant any further adjournments in relation to this case.

I accordingly dismiss the suit under **Order 17 rule 5 of the CPR.**

Costs awarded to the defendants.

15 
Alexandra Nkonge Rugadya

JUDGE

29th June, 2022

Delivered by email



29/6/2022