

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**(LAND DIVISION)**  
**MISCELLANEOUS CAUSE NO.080 OF 2022.**

- 5    1. **NALWANGA LWANGA**  
     2. **FRANCIS MUBIRU**  
     3. **PAUL MUBIRU**  
     4. **MUBIRU DAVID**  
     5. **ABDUL NSUBUGA**

10   6. **PAUL MUBIRU**.....**APPLICANTS**

**VERSUS**

     1. **ADMINISTRATOR OF THE ESTATE OF**  
     **THE LATE MUWANGA YOWERI KADDU**

     2. **COMMISSIONER LAND**

15   **REGISTRATION**.....**RESPONDENTS**

**Before: Justice Alexandra Nkonge Rugadya.**

**Ruling.**

The applicants through their lawyers, **M/s Haguma Law Chambers & Advocates** brought this application by way of Chamber Summons seeking orders that a representative order be granted to the applicants to represent all the intending plaintiffs who have an actual existing interest in the land comprised in **Busiro Block 555 Land at Bugera Located at Bussi Island measuring approximately 660 acres** (hereinafter referred to as the 'suit land'), for the benefit of all, in the intended suit against the defendants. It also seeks costs of the application.

25   **Grounds of the application.**

The grounds upon which this application is premised are contained in the affidavit in support deposed by **Mr. Paul Mubiru**, wherein he stated *inter alia* that; all the intended plaintiffs who belong to the 'mamba clan' headed by their traditional leader, 'Magera', were given the suit land which they have occupied, undisputed, for generations dating back to the 1940s.

30   That the land is made up of several homesteads belonging to the plaintiffs, schools, farms, as well as other traditional valuables and heritage sites that are of sentimental value to the intended plaintiffs, including the burial site of their former clan leader, a one Yona Magera, in whose names the suit land is registered as he held the same in trust for all the intended plaintiffs and that the land is pending a transfer into the names of the current 'Magera', a  
35   one Livingstone Magera.



That sometime in 2017, the intended plaintiffs discovered that the intended defendants, who were unknown to them, were going to survey the suit land which came as a shock to the plaintiffs who had not authorized any survey and that when they conducted a search, the intended plaintiffs further discovered that not only had **Block 555** been cancelled by the Commissioner Land Registration, but **Block 573** had also been on the suit land.

In addition, that when the intended plaintiffs and the applicants herein attempted to verify the findings on the cartographic maps, it was discovered that **Block 555** still reflected as the right block number.

Further, that because the defendants have now resorted to using forceful means to conduct surveys on the suit land with the help of Police agents from Entebbe, the intended plaintiffs risk being displaced from their ancestral homes/land which is of immeasurable sentimental value to them, as it is the only source of livelihood they have.

That the intended plaintiffs have therefore deemed it fit to bring their matters before courts of law for justice, and it is in the interest of justice that this application is granted.

The record contains an affidavit of service deponed by a one Alexander Igiraneza, a court process server who states that on 27<sup>th</sup> September, 2022 chamber summons, as well as the affidavit in support of this application, and was informed by counsel for applicants that the respondent was represented by **M/s Lukwago & Co. Advocates**.

That upon reaching the firm, he handed the documents to the receptionist who received the same and upon consultation with Counsel Medad Segona, she was instructed to receive the same but not to sign or stamp the same.

**Determination of the application.**

It is trite law that nobody can bring an action on behalf of another person or persons without seeking their informed consent and that it is mandatory to notify persons on whose behalf the intended suit is going to be instituted so that they are aware and can own up both the positive and negative consequences of the suit.

**Order 1 rule 8 of the Civil Procedure Rules**, which is relevant to this application, provides that:

***where there are numerous persons having the same interest in one suit, one or more of such persons may, with the permission of the court, sue or be sued, or may defend in such suit, on behalf or for the benefit of all persons so interested. But court shall in such case give notice of the institution of the suit to all such persons either by personal service or where, from the number of persons or any other cause, such service is not reasonably practicable, by public advertisement, as the court in each case may direct.***





A representative action filed under **Order 1 Rule 8 Civil Procedure Rules** must be in respect of a definitive and identifiable group of persons who all bear the same interest. In **Ibrahim Buwembo and 2 others versus M/s UTODA LIMITED HCCS 664 of 2003**, Justice **Kiryabwire**, as he then was observed that:

5        ***the object of Order 1 rule 8 is to facilitate a large group of persons who are interested in the same action to sue collectively without recourse to the normal procedure where each one of them would individually maintain a separate action by way of a separate suit... The person concerned must have the same interest in the suit and can collectively be called plaintiffs or defendants.***

10      The mandatory nature of this requirement is fortified in **Order 7 rule 4 of the Civil Procedure Rules** which provides that:

15        ***"Where the plaintiff sues in a representative character, the plaint shall show not only that he/she has an actual existing interest in the subject matter but that he or she has taken steps if any, necessary to enable him or her to institute a suit concerning it."***

I have perused the application which discloses that there are there numerous persons intending to be plaintiffs. The applicants are the beneficiaries under the estate of the late Yona Magera of mamba clan and therefore have interest in the land.

20      A full list of about 100 other interested parties is also attached to the application, as **annexture B 13**. Their signatures are appended and have duly authorised the applicants to represent their interests in this matter: a proper case therefore for the grant of the representative order.

25      Further, the above provisions of the law require that all the persons intended to be parties in the intended suit ought to be notified of the same through effecting service of such notice on them. Such notice must disclose the nature of the suit as well as the reliefs claimed therein, in order to enable the persons interested to join as parties.

30      Further, the notice must mention the names of the persons who have been permitted to represent them, so that the persons interested may have an opportunity of knowing who has been selected to represent them. **(See: Andama Richard & others vs Anguyo Tom Miscellaneous Cause No. 18 of 2017/; Ibrahim Buwembo, Emmanuel Sserunjogi, Zubairi Muwanika for and on behalf of 800 others v. UTODA Ltd., HCCS No. 664 OF 2003).**

35      Considering the fact that none of the respondents filed a reply in objection to this application, it is hereby granted in the following terms:



1. The applicants herein shall by way of personal service effect service of the notice of the suit onto the intended persons on whose behalf or for whose benefit the suit is intended to be instituted;

2. The content of the notice must clearly disclose the nature of the suit as well as the reliefs intended to be claimed therein; mention the names of the persons who intend to file the representative suit together with the particulars of the advocate representing them; and other information, as guided by law.

3. No orders as to costs.

I so order.

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Alexandra Nkonge Rugadya

Judge

1<sup>st</sup> December, 2022

Delivered by email  
Ashraf  
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1/12/2022