

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
LAND DIVISION
CIVIL SUIT NO. 276 OF 2018

5 **SSEMBAJJWE EMMANUEL ::::::::::::::::::::::::::::::::::: PLAINTIFF**

VERSUS

SSEMBAJJWE MARY SAMALIE & 3 OTHERS :::::::::::::::::::::::::: DEFENDANTS

BEFORE: Lady Justice Alexandra Nkonge Rugadya

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DISMISSAL ORDER

This suit was filed on 25th April, 2018, by Mr. Sembajjwe Emmanuel against Mrs. Ssembajjwe Mary Samalie and three others.

15 The hearing initially took off on 11th September, 2020, in the presence of the plaintiff himself as well as the 1st and 2nd defendants. Following some discussions on that day, the parties agreed to carry out a survey of the suit land comprised formerly in ***Kyadondo Block 120, Plot 107 at Kabuza*** which had been subdivided.

20 As directed, a survey report was to be filed. This court also advised the parties to settle the matter out of court and also directed that in case of failure to find an amicable settlement, the plaintiff was to generate a joint scheduling memorandum and all trial bundles were to be filed.

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Other directives were made at the next hearing which required that by 14th September, 2020 all witness statements were to be filed on record.

Since then it has been more than two and half years and although the survey exercise was conducted, the plaintiff whose duty it was to initiate the compliance with the directives of court and make a follow up for the conclusion of this case did not turn up today, 18th April, 2023 to explain why there was non-compliance.

Counsel Muhamood Kakeeto, representing the 1st and 2nd defendants and also holding brief for Counsel John Patrick Muganga for 3rd defendant attended court together with the 1st, 2nd and 3rd defendants. There is no explanation formal or otherwise on record as to why the plaintiff or his counsel are absent.

Counsel Kakeeto on that basis moved court to proceed under **0. 9 rule 22 of CPR** and have the suit dismissed.

09 Rule 22 of CPR provides that where the defendant appears and the plaintiff does not appear when the suit is called for hearing the court shall make an order that the suit be dismissed. The provision is mandatory.

I am also inclined to believe that the plaintiff has since lost interest in the prosecution of this suit and I accordingly dismiss it under **0.9 Rule 22 of CPR**, with costs to the 1st – 3rd defendants.

I so order.


Alexandra Nkonge Rugadya

JUDGE

18th April, 2023.