

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
MISCELLANEOUS APPLICATION NO. 314 OF 2021
(ARISING FROM MISCELLANEOUS APPLICATION NO. 268 OF 2020)
(ARISING FROM CIVIL SUIT NO. 61 OF 2017)
OF THE CHIEF MAGISTRATE’S COURT OF MAKINDYE AT MAKINDYE

KIZITO HENRY-----APPLICANT

VS

1. BAZANYE GODFREY NKANGI

2. LWANGA STEVEN-----RESPONDENTS

BEFORE: Hon. Lady Justice Olive Kazaarwe Mukwaya.

RULING

This is an application for revision brought under Section 98 of the Civil Procedure Act and O.52 of the CPR. The Applicant Mr. Kizito Henry Nkonge is an unrepresented litigant.

According to the Notice of Motion and the Supplementary affidavit, Mr. Kizito seeks orders that he inter alia be declared the owner of the suit property. It must be understood that the substantive suit out of which this motion arises is ongoing Civil Suit No. 061 of 2017 before the Chief Magistrate’s Court of Makindye. It is yet to be determined.

The Applicant before me argues that the Certificate of Title to the suit land is ‘nonexistent’ and ought to be nullified by this Court, hence this application.

I have perused the plaint in Civil Suit No. 61 of 2017 filed on the 8th September 2017. The Plaintiff sought a declaration that he is the owner of the Kibanja measuring 40 by 120 feet.

In the written statement of defence dated 12th December 2017, the Defendants deny the Plaintiff's claim to which the Plaintiff replied in a manner that read like submissions. Both pleadings were initially silent of the land described as Block 7 Plot 573 in Nkere Makindye Division until the Plaintiff filed an amendment to the plaint on the 23rd November 2020.

It is not clear whether leave was granted by Court to file the amended plaint. The last minute on the Court record is dated 8th October 2020. On that date, the Plaintiff informed Court that he had filed an amended plaint and served Defendant's Counsel. He then prayed for an adjournment so that they could file their reply. Counsel for the Defendants stated that she had not had time to peruse the application for amendment. She conceded to the adjournment to "prepare accordingly". Court then adjourned the matter to the 15th February 2021.

On the 24th February 2021, this motion was fixed before this Court. I take cognizance of the fact that the Applicant is unrepresented, however if he cannot afford legal representation there are numerous options available to offer legal aid services to him.

I say this because I notice that the proceedings in the lower Court have been unduly protracted largely because the Applicant is unrepresented.

In conclusion, I find that this particular application is untenable. There is absolutely no reason why it is before me. The lower Court has not taken any evidence nor made any interlocutory decision on the ownership of the suit land to warrant an application for revision.

I dismiss the application and order the following;

- a. File is forwarded to the lower court for hearing and conclusion of Civil Suit No. 61 of 2017.**
- b. Costs shall abide the outcome of Civil Suit No. 61 of 2017.**

Olive Kazaarwe Mukwaya

JUDGE

31st January 2023

Delivered by email to Counsel for the Parties.