

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
LAND DIVISION
MISCELLANEOUS APPLICATION NO.1364 OF 2023
(ARISING FROM LAND DIVISION HCCS NO. 38 OF
2021)**

**1. ADRONA NYINDOMBI
2. DOROTHY MATOVU
3. SARAH MATOVU
4. GEORGE MATOVU
5. DENIS MATOVU
6. THERESA MATOVU:.....:APPLICANTS
VERSUS**

DR. JOSEPH WASSWA MATOVU:.....:RESPONDENT.

BEFORE: HON.LADY JUSTICE KANYANGE SUSAN

RULING

This is an Application brought under Section 98 of the Civil Procedure Act, Section 33 Judicature Act. Cap 13. Order 52 rule 1,2,3 of the Civil Procedure Rules. It seeks for orders that

- a) HCCS no.38 OF 2021, Dr Joseph Wasswa Matovu versus Adrona Nyindombi and 7 others is Res Judicata in respect to suit property comprised in Busiro Block 367 Plot 143 Land situated at Mpogo Wakiso District.
- b) That the Respondent has no locus to bring the said suit.
- c) Costs of the Application.

Background

The Respondent filed Civil Suit No.38 of 2021 seeking declarations that ***the 1st 2nd, 3rd,4th,5th, and 6th***



Applicants were illegally and fraudulently registered as proprietors to land and property comprised in Busiro Block 367 Plot 143 Land situated at Mpogo Wakiso District. That the said transfer affecting the said land was null and void. That the said land belongs to the estate of the late Eng. John Tebyasa Matovu. That the 7th and 8th Respondents acted fraudulently in relation to the transactions affecting the land, and prayed for an order cancelling all the transactions affecting the suit land among others.

The applicants filed a written statement and then filed this application through their lawyers **Ligomarc Advocates** seeking orders, ***that HCCS no.38 OF 2021 in respect to suit property comprised in Busiro Block 367 Plot 143 Land situated at Mpogo Wakiso District is res judicata. That the Plaintiff has no locus to bring the said suit and costs.***

GROUND FOR THE APPLICATION.

The grounds of this Application have been stated in the Affidavit of Adrona Nyindombi but briefly they are ,

- The Respondent filed HCCS no. 38 of 2021 seeking cancellation of the certificate of title for the suit property comprised in Busiro Block 367 Plot 143 Land situated at Mpogo Wakiso District,
- The suit property has been wholly and subject to litigation in HCCS NO. 250 of 2009 and Civil Appeal No. 186 of 2012
- The Respondent ceased to be the Manager of the estate of John Tebyasa when he died and that the suit property does not form part of the estate of the late John Tebyasa