

THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA AT KAMPALA  
LAND DIVISION  
MISCELLANEOUS APPLICATION NO. 579 OF 2023  
ARISING FROM CIVIL SUIT NO. 132 OF 2019

5  
FIFI ESTHER MATOVU:..... APPLICANT

VERSUS

1. DR. JAMES KANYIJE

2. MRS. KARUNGI EDWIG :..... RESPONDENTS

10 *Before: Lady Justice Alexandra Nkonge Rugadya*

RULING

This application is brought under the provisions of **sections 6 and 98 of the Civil Procedure Act, Section 33 of the Judicature Act.**

It seeks order that:

- 15 a) *The trial of **Civil Suit No. 132 of 2019** between the applicant and the respondents be stayed pending the hearing and determination of **Civil Suit NO. 2230 of 2016.***
- b) *The costs of this application be paid for by the respondent.*

**Brief background:**

20 The application is supported by the affidavit of the applicant, Fifi Esther Matovu wherein she states that the respondents filed **Civil Suit No. 132 of 2019** against her seeking recovery of land comprised in Mengo **Block 394 Plot 479 and 480**, Land at Sekiwunga, Kajjansi Town Council.

It is averred by the applicant that the said land was originally owned by Dr. William Nganwa as the registered proprietor by October 2012. **(See Certificate of title attached on the**  
25 **affidavit in support and marked A')**

Her claim of interest in the suit land is through her husband a one Teddy Zola Mpingi who bought the same from Dr. William Nganwa acting through his lawful agent Birungi James



on the 25<sup>th</sup> day of March 2015, as per the sale agreement annexed on the affidavit and marked B.

That on the other hand, the respondents claim to have acquired the suit land from *Akright Project Ltd* and consideration of **UGX 56,000,000/=** (fifty six million shillings only). **(See a copy of the Sale agreement attached and marked "C")**.

The affidavit in objection was deponed by Mr. James Kanyije (1<sup>st</sup> respondent). His claim was that the respondents purchased the suit land from *Akrights Projects Lts* by an agreement dated 16<sup>th</sup> January, 2013 upon which transfer forms were signed by Dr. Nganwa and the land transferred in their names on 18<sup>th</sup> March, 2014.

It is the respondents' further claim that the alleged purchase in 2015 was from a person who had no authority to sell and who gave no guarantee for indemnity in case of third party claims, as shown in the agreement; it was also done without a search at the land registry, otherwise the applicant would have established the ownership of the suit land.

That in any case **Civil Suit No. 143 of 2015** now **Civil Suit No. 2230 of 2016**, was filed after the respondents had already transferred the titles to the suit land into their names and mentions only **plot 480** yet the respondents had acquired title to both **plots 480 and 479**.

That the respondents' evidence of ownership was indefeasible; and that the issue and outcomes different. The agreed issue as per the JSM in respect to this application is which of the two parties has good title.

In submissions he argued further that whereas therefore it is true that both parties claim rights from the same owner, the title to the land had transferred to the respondents such that Dr. Nganwa or his agent no longer had good title to pass to the applicant's alleged husband, one Teddy Zola Mpingi, whose identity has been concealed by the applicant.

As such, there are illegalities surrounding the alleged purchase and an order of stay if granted will enable the illegalities to go unabated which will occasion a miscarriage of justice.

**Consideration of the issue:**

I have carefully read the pleadings, and submissions filed by each side which I have considered in addressing the issues in this application.

**Section 6 of the Civil Procedure Act Cap 71** provides as follows:

