

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
[LAND DIVISION]
MISCELLANEOUS CAUSE NO. HCT-00-LD-MC-0375-2023**

**IN THE MATTER OF AN EXPARTE APPLICATION BY BHARAT
KESHAVLAL SHAH FOR REMOVAL OF A CAVEAT LODGED BY
GUNVATRAI KESHAVLAL SHAH (LATE) ON LAND COMPRISED IN
LRV 245 FOLIO 20 PLOT 33 BUKOTO STREET, KOLOLO HILL,
KAMPALA**

BEFORE: HON. JUSTICE BERNARD NAMANYA

RULING

1. This *ex parte* application was brought under Sections 140(1) & 145 of the Registration of Titles Act (Cap 230), Section 33 of the Judicature Act (Cap13), Section 98 of the Civil Procedure Act (Cap 71), and Order 52 of the Civil Procedure Rules (S.I 71-1) seeking for orders that:
 - i). The caveat lodged by Mr. Gunvatrai Keshavlal Shah (deceased) on the certificate of title for land comprised in LRV 245 Folio 20 Plot 33 Bukoto Street, Kololo Hill, Kampala be vacated and/or removed;
 - ii). The Commissioner for Land Registration be directed by this Court to vacate and/or remove the said caveat, and effect the changes in the register book; and
 - iii). The costs of the application be waived.
2. This application is supported by an affidavit and supplementary affidavit sworn by Bharat Keshavlal Shah (the applicant) on 20 October 2023 and 21 November 2023 respectively.



3. At the hearing of the application on the 17 November 2023 and 29 November 2023, Mr. Edward Sekamate of M/s. Kiwuuwa & Co. Advocates represented the applicant.
4. The applicant avers that his late father Keshavlal Premchand Shah passed away testate on 22 January 1968. In his will, the late Keshavlal Preschand Shah appointed his wife Vijya Keshavlal Shah, and sons Gunvantrai Keshavlal Shah and Manharlal Keshavlal Shah, as executors of his estate. They were granted letters of probate on 4 May 1968 vide Administration Cause No.28 of 1968. Vijaya Keshavlal Shah and Gunvantrai Keshavlal Shah passed away on 13 December 1996 and 20 July 2009 respectively leaving Manharlal Keshavlal Shah as the sole executor of the estate. Manharlal Keshavlal Shah failed to execute his roles as the executor of the estate, and as a result, letters of probate for the estate of the late Keshavlal Premchand Shah were revoked, and the applicant was granted letters of administration of the said estate on 19 March 2010. He further averred that there are only three surviving beneficiaries of the estate of late Keshavlal Premchand Shah namely; Manharlal Keshavlal Shah, Jashvant Keshavlal Shah and himself. Further, that Manharlal Keshavlal Shah and Jashvant Keshavlal Shah are both uninterested in the property or proceeds of the estate of the late Keshavlal Premchand Shah.
5. The applicant further avers that on the 23 December 2010, he was registered on the certificate of title for land comprised in LRV 245 Folio 20 Plot 33 Bukoto Street, Kololo Hill, Kampala, as an administrator of the estate of the late Keshavlal Premchand Shah, and subsequently lodged a caveat to protect the interests of the estate on 16 August 2023. That when he made a search on the land, he found out that the late Gunvantrai Keshavlal Shah had also lodged a caveat on 25 November 1997. He stated that the said caveat has



prevented him from administering the estate of the late Keshavlal Premchand Shah. The applicant thus prayed, that the caveat be removed because it does not serve any purpose or affect any other person's interests.

6. The main issue for determination is whether the caveat lodged by the late Shah Gunvantrai Keshavlal on land comprised in Leasehold Register Volume 245 Folio 20 Plot 33 Bukoto Street, Kololo Hill should be removed.
7. The law allows lodgement of a caveat to protect the estate of a deceased person. Section 139(1) of the Registration of Titles Act provides that:
“139. Caveat may be lodged and withdrawn
(1) Any beneficiary or other person claiming any estate or interest in land [...] may lodge a caveat with the registrar [...] forbidding the registration of any person as transferee or proprietor of and of any instrument affecting that estate or interest until after notice of the intended registration or dealing is given to the caveator [...]”
8. Under Section 140(2) of the Registration of Titles Act, a caveat lodged by or on behalf of a beneficiary claiming under any will or settlement is protected from automatic removal after the expiration of 60 days after notice is given to the caveator that the proprietor has applied for the removal of the caveat.
9. Accordingly, caveats that are lodged to protect an estate of a deceased person do not lapse automatically after the expiry of the statutory notice of 60 days unless the court orders such caveat to be removed upon sufficient cause being shown.
10. In this case, the court is required to determine the circumstances under which a caveat lodged by a deceased caveator may be removed.



proper course of action is for the applicant to sue the legal representative of the deceased caveator for the removal of the caveat, and prove sufficient cause for the removal of the caveat.

14. It is highly irregular for the applicant to bring an *ex parte* application for the removal of a caveat, and yet there are other persons who are potentially interested in the estate of the late Keshavlal Premchand Shah, and whom the court should hear from, before ordering for the removal of the caveat. The applicant has failed to prove sufficient cause for the removal of the caveat on land comprised in Leasehold Register Volume 245 Folio 20 Plot 33 Bukoto Street, Kololo Hill.
15. In the result, I find no merit in this application, and it is dismissed with no orders as to costs.

IT IS SO ORDERED.



BERNARD NAMANYA
JUDGE
16 January 2024

Delivered by E-mail:

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