

& 1198), plots 393, 425, & 257, land at Bulenga 'A' Wakiso District.

5 **b. That an order doth issue directing the Commissioner Land Registration to issue a certificate of title for the surveyed portion of the deceased's kibanja/land measuring approximately 2.30 acres (0.930 hectares) into the applicants' names as administrators of the estate of the late Eriazali Kiiza Mukasa Kibalama which was decreed to belong to the late Eriazali Kiiza**
10 **Mukasa Kibalama vide consent judgment/decreed in High Court Civil Suit 0079 of 2007 issued on 9th February 2018.**

c. Costs be provided for.

Grounds of the application.

15 The grounds upon which this application is premised upon are contained in the affidavit in support thereof deponed by Mr. Fred Mugwanya, the 1st applicant herein but briefly, that on 9th February 2018, the parties to **Civil Suit No.0079 of 2007** entered a consent judgement before this court.

20 That in compliance with the said consent, the applicants' lawyers on 21st June 2022 instructed **m/s Grid Survey & Associates Ltd** to proceed and open boundaries so as to establish the original acreage of the late Eriazali Kiiza Mukasa Kibalama's *kibanja*.

25 That on 1st July 2022, in the presence of the applicants, Local council, and police the boundary open exercise was conducted on land comprised in **Block 364 plot 334 land at Bulenga** and that the report prepared thereafter revealed that the original *kibanja* belonging to the estate of the late Eriazali Kiiza Mukasa measured approximately 2.30 acres on **plot 334** which according to the aforementioned consent was to be curved off for the estate to obtain a certificate of title thereto.

30 That it is important and equitable that this court ratifies and adopts the said land surveyor's report dated 4th July, 2022 to enable court give the



Commissioner Land Registration to issue the certificate of title in respect of the land established as forming part of the late Eriazari Kiiza Mukasa Kibalama, and to operationalize the orders of this court.

5 That the respondents shall not be prejudiced in any way as they are according to the terms of the consent entitled to retain the certificates of title for the land they acquired, thus it is just and equitable that this application is allowed.

Reply in Objection:

10 The affidavit in reply was filed by the 1st respondent and supported by the affidavit of the 2nd respondent, Daniel Banja.

The gist of their objection is that there are matters concerning the estate which were transferred and still pending before the Family division; and that this application is therefore misconceived, as the applicants did not come to court with clean hands.

15 **Representation:**

The applicant is represented by ***M/s Shonubi Musoke & Co. Advocates*** while the respondents are represented by ***M/s Obed & Associated Advocates*** and ***M/s Sanywa & Co. Advocates***.

Consideration of the issue:

20 I have carefully looked at the pleadings and submissions by either side and I have noted that indeed a consent agreement was endorsed by this court under ***Civil Suit No. 0079 of 2007***, which the respondents however seek to challenge vide ***MA No. 1158 of 2023***, on the ground that it was not signed by some of the family members. The decision is pending determination in
25 which was due for hearing on 15th November 2023 before the family division.

I have noted that after the consent was signed other developments have since taken place took place. The applicants obtained letters of administration over the estate of the late Kiiza Mukasa Kibalama and sold part of the estate to John Kalembe, as per the sale agreement dated 28th April, 2022.

