

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
HOLDEN AT MBALE
MISCELLANEOUS CAUSE NO 004 OF 2023

WILBERFORCE DEGA:..... APPLICANT
VERSUS
UGANDA REVENUE AUTHORITY:..... RESPONDENT

RULING
BEFORE HON . JUSTICE NAMUNDI GODFREY

This Application was brought under sections 17 of the Judicature Act, Section 18(b) of the Civil Procedure Act, Sections 217 and 218 of the Magistrates Act, Order 1 Rule 10, Order 6 Rules 19 and Order 52 Rule 1 of the Civil Procedure Rules.

It seeks Orders that Civil Suit 8 of 2009 in the Chief Magistrates Court Mbale be withdrawn from there and be tried by the High Court.

- That the Applicant and Respondent be joined as parties to the Suit.
- The Applicant be granted leave to amend the plaint.
- Costs.
-

The grounds giving rise to this Application are contained in the Notice of Motion as well as the Affidavit in support deposed by the Applicant.

I will not reproduce the contents therein but will refer to them as and when necessary in the course of this ruling.

In summary the Applicant claims to have acquired interests in the suit property the subject of Civil Suit 8/2009 in the Magistrates Court. That he acquired the same from the plaintiffs in the above Suit.

The said Plaintiffs were sitting tenants who acquired the Suit land from Uganda Land Commission under the then Government Policy of disposing off its pool Houses.

Having so acquired the same, they then passed their interests to the instant Applicant who procured a loan from Housing finance Bank to pay off the property.

The Respondents in the instant Application however claim ownership of the said same property.


The Applicant therefore seeks to be added as a party to that Suit as one of the Plaintiffs and the Respondent as one of the Defendants

The Respondents filed a reply to this Application.

For purposes of this ruling I will not delve into the merits of the Application, the pleading and submissions.

The record in the Chief Magistrate's Court Mbale does reveal that the suit there giving rise to the instant Application is neither pending nor proceeding. On 25/11/2009, parties were supposed to appear in court but both were absent.

It is only Counsel for the Defendants who was present and applied for adjournment to another date.

The same was adjourned to 16/02/2010, subsequently the matter was fixed for 7/5/2010 by the then Chief Magistrate. After some other adjournments the matter was fixed for 2/11/2010.

On the said date, Counsel for the Plaintiffs appeared and sought adjournment which was granted and the matter was fixed for 8/2/2011.

Both parties were absent on the said 8/2/2011, and subsequently on 18/4/2011 the Chief Magistrate dismissed the matter for want of prosecution.

This court record is available for whoever is interested.

It follows therefore that the reliefs sought in the instant application are redundant since the Suit sought to be transferred to the High Court was disposed off on 18/4/2011.

There is nothing to transfer to this court and hence the prayers for adding parties, amendment of pleadings and others are irrelevant.

I do find that this Application is wrongly before this court and it is an exercise in futility to delve into its merits.

It is struck out and dismissed accordingly.

Each party will meet their own Costs.



NAMUNDI GODFREY
JUDGE.
