

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT SOROTI

MA 32 OF 2013 ARISING FROM CS NO. 6 OF 2012

CUTHBERT JOSEPH OBWANGOR

Suing through an attorney Angela Margret Itinot.....PLAINTIFF

V

TESO COACH LTD.....RESPONDENT/DEFENDANT

AND

1. ANGELA MARGRET ITINOT

2. ROSEMARY ATIM

Administrators of the estate of late

Cuthbert Obwangor.....APPLICANTS

BEFORE : HON. LADY JUSTICE H. WOLAYO

RULING

In this application, the applicants Angela Margret Itinot and Rosemary Atim , through their advocates M&G Associated seek to substitute the deceased plaintiff in CS 6 of 2012.

The grounds of the application are contained in the notice of motion as well as the affidavit in support . The main grounds are that the plaintiff passed away on 19.5.2012 and on 19.11.2012, the two applicants were granted letters of administration.

The respondent, through its advocates GP Advocates, filed an affidavit in reply opposing the application. The main ground in opposition is that the applicants'

authority to administer the estate of the deceased was challenged by **Family Division CS 80 of 2013** by **Alupo Rose Obwangor and Aruo Francis**.

Counsel for the respondent Mr. Anguria cited **Land Division MA 573 of 2009** arising from **CS 532 of 2003, Etima Iddi Veve v Noah Abdallatiff and anor** , in support of his arguments opposing the application.

I am called upon to determine whether the applicants should be substituted for the deceased plaintiff in light of their being holders of letters of administration and against the background that the grant is being challenged in the Family Division of the High Court.

I have studied the substantive suit (CS 6 of 2012) between the deceased plaintiff and the respondent company. The plaint seeks the following remedies:

1. An order of vacant possession
2. An order for demolition of unauthorised structures
3. Payment for arrears of 56, 400,000/
4. Mesne profits and general damages.

These remedies, if granted, have far reaching consequences which require a substantive legal representative to take charge of . In view of the remedies sought, the respondent as defendant is entitled to deal with a party who is clothed with full authority to take decisions . A legal representative who is being challenged is not clothed with unchallenged authority.

I find the decision in *Etima Iddi v Noah Abdallatiff*(supra) persuasive.

In the premises, i decline to grant the application sought pending the disposal of Family division CS 80 of 2013 or until further orders of this court.

DATED AT SOROTI THIS 8TH DAY OF NOVEMBER 2013.

HON. LADY JUSTICE H. WOLAYO