

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**CIVIL DIVISION**

**MISCELLANEOUS CAUSE NO. 89 OF 2014**

**WASSWA PETER WERAGA :::::::::::::::::::::::::::::::::::APPLICANT**

**VERSUS**

**1. COMMISSIONER LAND REGISTRATION**  
**2. ATTORNEY GENERAL**  
**3. ADMINISTRATOR**  
**GENERAL**

**::::::::::::RESPONDENTS**

**BEFORE: HON. LADY JUSTICE ELIZABETH MUSOKE**

**RULING**

This is an application for Judicial Review by way of Notice of Motion based on Section 33, 36(i), 37 and 38(i) of Judicature Act and rules (i) and 6 of Judicature (Judicial Review) Rules 2009, seeking for the following orders;

- 1) Prohibition and or injunction restraining the respondents from investigating and interfering with the applicant's administration of the estate of late Ibrahim Kigula and Isaaka Kagimu in respect of land formally described as Kyaggwe Block 101 Plot 60 of unascertained portion, approximately 69 acres at Misindye, Mukono District, herein the suit land.

- 2) Certiorari, quashing all proceedings pending before the 1<sup>st</sup> respondent in respect of the suit land.
- 3) An order that the 1<sup>st</sup> respondent lifts the embargo on the applicant's transactions on the estate land under his administration.
- 4) Costs of the application be provided for.

The grounds on which the application is based are:

- i) The suit land formed part of the estate property of late Ibrahim Kigula and Isaac Kagimu and after their demise, the applicant secured letters of administration and probate respectively for the two estates and pursuant thereto, he mutated the suit land to white pages under Registration of Titles Act, sub-divided it into several plots, sold and transferred some to third parties.
- ii) In the 1<sup>st</sup> applicant's course of administration of the estates, one Peter Nkeeto Bigomba sued him in the High Court at Jinja, under Civil Suit No. 75 of 2012, claiming the whole estate's suit land as a beneficiary and the suit terminated into a consent judgment and decree in favour of the applicant.

- iii) Based on first acquired letters of administration which was forged and issued to the applicant by the High Court under HCT-00-CV-AC-86-2003 for the estate of late Ibrahim Kigula, of which the applicant was charged but later the police cleared him of any wrong doing and the Director of Public Prosecutions Office recalled the criminal charges file for his prosecution, but the State Attorney and police nonetheless went ahead with the prosecution at Buganda Road Court and proceedings are on-going.
  
- iv) After the applicant became aware that court had issued to him forged letters of administration which he had used to transact on the estate land titles in mailo office Mukono, he applied and obtained a valid grant which he presented to Lands Office for regularization of titles, which was made but the 1<sup>st</sup> respondent nonetheless served on the applicant notice to effect changes in the Register on the suit land and stopped all the applicant's transactions on land of which the applicant is the estate administrator, on the ground of alleged fraudulent registration and the 3<sup>rd</sup> respondent moved police to investigate the applicant, when all of them have no legal authority to do so.

- v) The 2<sup>nd</sup> respondent is vicariously liable for the unlawful acts of the police and State Attorney at Buganda Road Court.

The application was supported by an affidavit in support filed on 5/8/2014 and another one in rejoinder filed on 19/9/2014 deponed by Waswa Peter Weraga, the applicant.

It was opposed by the 3 affidavits as follows:

An affidavit in reply filed on 16/9/2014 on behalf of the 1<sup>st</sup> respondent, and deponed by Wamala Ali, a Registrar of Titles in the Ministry of Lands, Housing and Urban Development, wherein he averred that:

1. The application was premature, improper, and incompetent.
2. In acting on a complaint from the beneficiaries of the late Ibrahim Kigula, the 1<sup>st</sup> respondent was exercising her mandate conferred on her under the Land Act Cap. 277 and Registration of Titles Act, Cap. 230.
3. The applicant was speculating about cancellation of his registration yet the 1<sup>st</sup> respondent had not yet reached

any decision. She had not committed anything ultra vires her powers.

4. The granting of the orders as sought would be curtailing the 1<sup>st</sup> respondent's mandate under the law.
  5. The applicant had never been discharged in any competent court of charges against him over the same matter.
- 2) An affidavit in reply filed on behalf of the 2<sup>nd</sup> respondent on 16/9/2014, deposed by Harriet Nalukenge, a Senior State Attorney in the Attorney General's Chambers, stating that:
- a) The applicant's case had no possibility of success.
  - b) There was no cause of action disclosed as against the 2<sup>nd</sup> respondent as the 2<sup>nd</sup> respondent was not seeking to interfere in any way in the administration of the estates of the late Ibrahim Kigula and Isaac Kagimu.
- 3) Another affidavit in reply filed on 16/9/2014 and another one in surrejoinder filed on 30/9/2014, on behalf of the 3<sup>rd</sup> respondent by Mpagi Peter Kasule, a beneficiary of the estate by the Late Mikairi Kiwanuka Mukoloboza under the administration of the 3<sup>rd</sup> respondent vide Administration Cause No. 0180 of 2012 granted on 12/4/2011, who averred that:

- a) The late Mukoloboza was a beneficiary of 10 acres of land from the estate of Ibrahim Kigula which was distributed under succession Register Page 5 Volume 699.
- b) The applicant fraudulently used forged letters of administration to cause a mutation/sub-division of the land comprised in Kyaggwe Block 101, Plot 60 Mailo registered Vol. 47 Folio 15 to the detriment of the estate of Mukoloboza's beneficiaries.
- c) The DPP has never cleared the applicant on charges of forgery.
- d) That the 1<sup>st</sup> respondent had all the powers to rectify the register where an illegality is brought to her attention.

When the case came up for hearing, the respondents raised several preliminary objections.

It was the case for the 1<sup>st</sup> respondent in her preliminary objection that she is the Commissioner Land Registration with the mandate to handle all land matters in Uganda; deriving her powers and authority from the Registration of Titles Act, Cap. 230, and the Land Act, Cap. 227, as variously amended. On that basis, the Commissioner Land Registration performs administrative powers.

In the instant, the Commissioner Land Registration/1<sup>st</sup> respondent received a complaint from people who claimed to be the

beneficiaries of the suit land, as per Annexure 'A' to the affidavit in reply in relation to land comprised in Kyaggwe Block 101 Plot 60 Misindye Mukono. By virtue of her office the 1<sup>st</sup> respondent was duty bound to act, and so by her letter dated 23<sup>rd</sup> January 2014, she invited all the parties for a public hearing. (See Annexure 'B' to the affidavit in reply of the 1<sup>st</sup> respondent). She exercised her administrative powers as envisaged under S. 91 of Land Act. All the parties including the applicant responded to the summons. The public hearing was conducted and she is due to give her decision on the matter as per the complaint lodged and hearings conducted.

As to whether the acts of the 1<sup>st</sup> respondent were ultra vires when no decision was yet to be taken, Counsel for the 1<sup>st</sup> respondent relied on the definition of ultra vires which meant "beyond powers, doing an act not within your powers or authority". (The source of the meaning was not disclosed). Counsel submitted that as long as the 1<sup>st</sup> respondent was properly exercising her powers as mandated under the law, to wit, S. 91 Land Act and S. 165 of Registration of Titles Act Cap 230, her acts were not ultra vires.

Counsel submitted further that the applicant had a remedy under S. 91 (10) of the Land Act Cap. 227 in the event that they are dissatisfied with the 1<sup>st</sup> respondent's decision which is yet to be taken. He relied on ***Uganda Taxi Operators and Drivers Association Vs Kampala Capital City Authority and Executive Director Kampala***

**Capital City Authority Misc. Application No. 137 of 2011**, where the applicant sought judicial review when the respondent had written a letter intending not to extend the applicant's contract, and the case was found not fit for judicial review since there was nothing ultra vires to prohibit and or quash. Counsel concluded that this application was not fit for judicial review since no decision had been taken and even then, the acts of the 1<sup>st</sup> respondent were within her mandate as by law established.

The second preliminary objection raised by the 1<sup>st</sup> respondent is that the application is misconceived, baseless and a waste of court's time; and it is an abuse of court process, as the applicant seeks to prohibit the 1<sup>st</sup> respondent from performing her administrative functions mandated under the law. Counsel relied on **Hon. J.K. Muhwezi Vs Attorney General and IGG: H/C Misc. Cause No. 56 of 2007** to state that courts have been reluctant to interfere with the administrative functions of bodies where there is nothing ultra vires being done. Halting the 1<sup>st</sup> respondent from exercising her powers, therefore, would be fettering her mandate under the Constitution, the Registration of Titles Act, and the Land Act.

Counsel concluded that this case was not fit for judicial review, and it ought to be dismissed with costs, and the preliminary objections upheld.

In his submission on a preliminary point the 2<sup>nd</sup> respondent gave further background to the case as follows:



The late Ibrahim Kigula prior to his demise was the registered owner of Kyagwe Block 101 Plot 60 measuring 69.0 acres of land at Misindye. On his death the land was distributed amongst his beneficiaries to wit: Mikaili Mukoloboza who was given 10.0 acres as per the succession register book 5 page 669. A report of death was lodged to the Administrator General upon which he took over the administration of the estate of Mikaili Mukoloboza vide Masaka Administration Cause No. 0180 of 2010.

In the course of the administration of the estate, the Administrator General demanded for a transfer of 10.00 acres out of Plot 60 to the beneficiaries of the late Mikairi Mukoloboza and also requested for an area schedule from Mukono Land Registry. It was then discovered that the entire plot 60 had been subdivided and all the land thereon was registered in the names of the applicant.

In light of the above, the Administrator General lodged a complaint to the Police Land Protection Unit on the 21<sup>st</sup> day of November 2012 requesting for investigation and to find a way of recovering the land due to Mikairi Mukoloboza.

Police embarked on the investigations after which they forwarded the file to the DPP for prosecution of the applicant. A case file referenced as CRB No. 163 of 2013 was opened and is still ongoing at Buganda Road Court.

Counsel submitted that the application was trying to frustrate the prosecution as the applicant was still on trial, and had not fully exhausted all possible remedies available. This case is not fit for judicial review as the orders sought for, and the procedure, are inappropriate under judicial review. The civil action instituted by the applicant against the 1<sup>st</sup> respondent is only intended to cripple the 2<sup>nd</sup> respondent's agents in performance of their duties. Counsel prayed that the application be dismissed.

On the preliminary objection raised by the applicant regarding the competency of Mpagi Peter Kasule to depone to an affidavit in support of the 3<sup>rd</sup> respondent's case yet he was not a party to the application, the 3<sup>rd</sup> respondent submitted that a deponent to an affidavit need not be a party to a matter or application before court. Order 19 rule 3 of the Civil Procedure Rules, inter alia, provided that an affidavit shall be confined to such facts as the deponent is able of his or her own knowledge to prove.

Mpagi Peter Kasule, is a beneficiary to the estate of Mukoloboza as stated in his affidavit in reply. It is pertinent to note that the 3<sup>rd</sup> respondent holds the said letters of Administration in trust of the beneficiaries of the estate of the late Mikairi Kiwanuka Mukoloboza; Mpagi Peter Kasule is one of the beneficiaries and with full knowledge of all facts pertaining to this application. (See ***Dr. Besigye Vs Museveni Yoweri Kaguta and Electoral Commission (Electoral Petition No. 1 of 2001)***).

Counsel concluded that Mpagi Peter Kasule was competent to depone to the affidavit in issue as he was well conversant with all facts pertaining to this application; he is one of the beneficiaries of the estate of the late Mikairi Kiwanuka Mukoloboza; and the application before court arises from the said estate. He invited court to dismiss the application with costs.

In reply to the 1<sup>st</sup> respondent's submission that the application was premature, improper and incompetent, the applicant submitted that it was not within the 1<sup>st</sup> respondent's powers to investigate matters of fraud and those already decreed upon by court. To act upon such amounted to active ultra vires her powers laid down in Section 91 (1) and (2) of the Land Act. (See paragraph 14 of the applicant's affidavit in support).

On the Commissioner Land Registration's powers to handle matters of fraud, Counsel relied on ***Olivia Sanyu & Anor Vs Commissioner Land Registration Civil Appeal No. 6 of 2013***, to state that the power to deal with issues regarding fraud in any land dealing under the RTA and Land Act lay with the High Court of Uganda, and not the Commissioner Land Registration, who acted outside her legal mandate and therefore her decision was a nullity and ultra vires.

On matters already entertained by court, he relied on ***Gordon Sentiba and Others Vs Inspectorate of Government Civil Appeal No. 06 of 2008*** for the proposition that a judicial decision between the parties is res judicata as between them, and should be respected

by all the parties and all the authorities until set aside in accordance with the law.

Further the applicant had deponed in paragraph 10 of his affidavit in support that he was a decree holder for the entire suit land. The decree had not been set aside by a competent court and it is a judgment in rem to be respected by every person and authorities including the Police, and the 1<sup>st</sup> and 2<sup>nd</sup> respondents. They had no power to investigate a matter already decreed upon.

On the 1<sup>st</sup> respondent's second preliminary objection that the application was misconceived, baseless and an abuse of court process, Counsel submitted that to investigate matters of fraud in land matters and those already adjudicated upon by court of law are not constitutional functions of the 1<sup>st</sup> respondent, under the provisions of the Land Act, and The Registration of Titles Act. The action of the applicant to file for judicial review was, therefore, not frivolous or vexatious. Counsel relied on ***Denis Bireje Vs Attorney General Misc. Application No. 902 of 2004 (Arising out of Misc. Cause No. 190 of 2004)*** cited in ***Semakula Sulati Vs Commissioner Land Registration & Attorney General Misc. Cause No. 75 of 2009 9page 17)*** to state that administrative actions will be subject to judicial control for illegality, irrationality, procedural impropriety and other grounds which have been added.

He concluded that the 1<sup>st</sup> respondent's acts are ultra vires and therefore fit for restraint by way of judicial review.

On the submissions by the 3<sup>rd</sup> respondent in reply to the applicant's preliminary objection that Mikairi Kiwanuka Mukoloboza lacked the competence to depone the 3<sup>rd</sup> applicant's affidavit, Counsel submitted that Mpagi Peter Kasule was not an agent of the respondent. Order 3 of the Civil Procedure Rules defines an authorized agent to include an advocate, or a person with powers of attorney. The affidavit in question was signed in representative capacity without written authority as required by the law. (See ***Kaingana Vs Dabo Boubou [1986] HCB 59***. He also relied on ***Emmanuel Lukwajju Vs Myers Mucunguzi & Nester Byamugisha Misc. Application No. 862 of 2011 (Arising from Civil Suit No. 346 of 2011 & Misc. Application No. 815 of 2011)*** where a clerk in a law office was said not to be an agent of a party. Counsel asked court to find the affidavits sworn by Mpagi Peter Kasule as incompetent, and the preliminary objections disallowed.

In her submissions in rejoinder, on the allegation that 1<sup>st</sup> respondent's actions were ultra vires as she is investigating fraud as against the applicant, Counsel for the 1<sup>st</sup> respondent rejoined that the 1<sup>st</sup> respondent was well versed with her powers under the Land Act, to wit S. 91 Land Act; and she was only exercising powers vested in her under the law. Counsel referred court to the relevant part of S. 91 of Land Act as amended which contains the powers of the 1<sup>st</sup> respondent.

From the law referred to and the correspondences addressed to the applicant, the 1<sup>st</sup> respondent was only investigating matters

within her powers as per the law. During the exercise of her administrative powers, both parties are accorded a fair hearing as was in the instant case. Further, the parties have a right to appeal against this decision within 60 days before action is taken.

Counsel submitted further that vide Annexure 'B' titled "Notice of intention to effect changes in the Register", the 1<sup>st</sup> respondent clearly stated that she was investigating what could have been "errors" and further stated that the same could have been procured "wrongfully". She clearly was not investigating fraud as alleged by the applicant. All she is investigating is what appears to be a registration which could have been done in error or wrongfully, which powers the Land Act clearly confers upon her. Counsel also reiterated that the 1<sup>st</sup> respondent had not even arrived at a decision. He relied on ***Steven Pepe Vs The Commissioner Land Registration and 2 Others Misc. Application No. 393 of 2011*** for the proposition that when the public hearing where the applicant was heard had been conducted but the 1<sup>st</sup> respondent was yet to communicate her decision, it would be mere speculation to conclude that the Commissioner would or would not cancel the certificate of title, or to grant a temporary injunction on an apprehended decision which could fall either way.

Counsel reiterated that the applicant's application was premature and incompetent since the acts as carried out by the 1<sup>st</sup> respondent were not ultra vires her mandate, thus did not require

judicial review at such a stage. Counsel reiterated the earlier prayer that there were no ultra vires acts committed by the 1<sup>st</sup> respondent thus the application was premature and, or incompetent thus should be struck out with costs.

On the allegation that 1<sup>st</sup> respondent's investigations were ultra vires as the matter had already been decreed upon by court, Counsel submitted that there was no court order or decree on record proving the same; and there is no order and or judgment between the applicant and the complainants who moved the 1<sup>st</sup> respondent to cause an investigation. All the applicant had was a consent judgment between him and someone completely different from the complainants who had a completely different claim. The complainants herein are different.

In any case, even if there was an order, the same would not stop the 1<sup>st</sup> respondent from carrying out her mandate if she finds that there was an error in registration, or that a registration was done wrongfully. Curtailing the 1<sup>st</sup> respondent from performing her duties would be stopping her from exercising her administrative powers enshrined in the constitution and the Land Act.

Counsel reiterated the prayer that the preliminary objection be upheld and the application be struck out with costs to the 1<sup>st</sup> respondent.

In reply to the 2<sup>nd</sup> respondent's submission on preliminary objections, that Mikairi Mukoloboza was given 10 acres on the

estate of late Ibrahim Kigula after his death, Counsel for the applicant submitted that this was only correct in so far as it is inserted so in the Succession Register, but false in that there was no such authentic distribution. The rest of the distribution, which was authentic, was done and signed against the beneficiary's name by the Kabaka of Buganda but no such signature appears against distribution of 10 acres to Mikairi Mukoloboza. (See Succession Register annexed as "P1" to the plaint in the notice dated 30/01/2014 marked "Q" to the applicant's affidavit in support of the application).

Further still, the action of the police, for which the 2<sup>nd</sup> respondent was vicariously liable, was irregular in law when a competent court of law, High Court, had decreed the applicant as owner of suit property (Annexure "H(3)" to the applicant's affidavit in support of the application). Counsel further contended that the Director of Public Prosecutions had recalled the police file on the applicant's prosecution but the police and Resident State Attorney refused to surrender the file to DPP (See Annexure "S").

Counsel concluded that it was pertinent and permissible under the law for the applicant to file a judicial review application for an order of prohibition, so as to pre-empt the respondent's unlawful actions before being done or completed.

I have considered the pleadings and submissions from either side and the law and authorities relied on. I note that the applicant seeks to restrain, through prohibition or injunction, the



respondents from interfering with his administration of the estate of the late Ibrahim Kigula (suit land); through certiorari to quash all proceedings before the 1<sup>st</sup> respondent in respect of the suit land; and that the 1<sup>st</sup> respondent lifts the embargo on the applicants transactions on the suit land.

With respect to the prayers against the 1<sup>st</sup> respondent, I will reproduce here below the letter from the 1<sup>st</sup> respondent which kicked off the impugned proceedings, in extenso;

***“THE REGISTRATION OF TITLES ACT (CAP. 230)***

***AND***

***THE LAND ACT (CAP. 227)***

***KYAGGWE BLOCK 101 PLOT 60 (AND OTHERS) LAND AT MISINDI***

***NOTICE OF INTENTION TO EFFECT CHANGES IN THE REGISTER***

***To: Wasswa Peter Weraga  
Administrator of the estate of  
the late Ibrahim Kigula  
P O Mukono***

***This office has received a complaint from the beneficiaries of the estate of the late Ibrahim Kigula and Mikairi Mukoloboza to the effect that you acquired forged letters of administration. That you used these forged grant and fraudulently got registered upon the estate of their deceased grandfather Ibrahim Kigula, thereby alienating them from this estate. They further state that your registration was done in error and therefore should be cancelled.***

***Perusal of the Register revealed the following:***

***1. That under instrument MKO94446 dated 12/6/2008; you got registered as an administrator of the late Ibrahim Kigula***

**under Administration Cause No. HCT-00-CV-AC-86-2003 of the High Court of Uganda.**

- 2. That the letters of administration purportedly used by you to have yourself registered upon the title register are forged and that there is a High Court document to prove.**
- 3. That using this fraudulent grant of Letters of Administration, you caused various subdivisions of Kyaggwe Block 101 Plot 1491 (1942-4495).**
- 4. That thereafter, you transferred these subdivided plots into various transferees.**
- 5. That all these were done in error as you were not the rightful beneficiary /administrator to pass on good title.**
- 6. That there is an authenticated succession register with the Administrator General providing for the proper distribution of this estate.**

**NOW THEREFORE in accordance with S. 91 of the Land Act, you are hereby given notice that I intend to have the Register rectified by cancelling the above described titles for having been obtained wrongfully.**

**You are required to bring the Duplicate Certificate of titles in your possession for cancellation and also let me know if there is any objection to my proposed action. You should respond to this notice within 21 days from the date of service on you thereof.**

**You are also invited for a public hearing on the 13<sup>th</sup> day of February 2014 at 8.30 a.m. in the Ministry Board Room. By copy of this notice, the complainants and all other transferees are hereby also invited to attend the hearing and to bring along all documents pertaining to the ownership of this property.**

**The Registrar of Titles Mukono is also required to attend.**

**Dated this .....23<sup>rd</sup> .....day of .....January... 2014.**

**.....sign.....**

**COMMISSIONER LAND REGISTRATION**

**c.c. Administrator General/Public Trustee  
P O Box 7151, Kampala”**

It is not in dispute that the applicant gave his response to the letter and even attended the public hearing, and that a decision of the 1<sup>st</sup> respondent is still awaited.

The 1<sup>st</sup> respondent states that she derives her powers from S. 91 (2) of the Land Act Cap 227, which states:

**(2) The Commissioner shall, where a certificate of title or instrument;**

**(a) is issued in error;**

**(b) contains a mis-description of land or boundaries;**

**(c) contains an entry or endorsement made in error;**

**(d) contains an illegal endorsement;**

**(e) is illegally or wrongfully obtained; or**

**(f) is illegally or wrongfully retained,**

**give not less than twenty one day’s notice, of the intention to take the appropriate action, in the prescribed form to any party likely to be affected by any decision made under this section; and**

***(2a) The Commissioner shall conduct a hearing, giving the interested party under sub-section (2) an opportunity to be heard in accordance with the rules of natural justice, but subject to that duty, shall not be bound to comply with the rules of evidence applicable in a court of law.***

***(2b) Upon making a finding on the matter, the Commissioner shall communicate his or her decision in writing to the parties, giving the reasons for the decision made, and may call for the duplicate certificate of title or instrument for cancellation, or correction or delivery to the proper party.”***

The 1<sup>st</sup> respondent did summon the applicant for the public hearing, and he is indeed not complaining about this. The 1<sup>st</sup> respondent carrying out investigations and Section 2(b) above requires the 1<sup>st</sup> respondent to communicate her decision in writing to the parties, giving reasons there for. This has not yet happened. Depending on her decision and reasons thereto, that is when any affected party can allege any ultra vires by the 1<sup>st</sup> respondent.

In the said letter the 1<sup>st</sup> respondent stated that there was a complaint about fraudulent transactions on the suit land, also alleging that the applicant’s registration was done in error and hence should be cancelled. She is empowered to rectify the register in case of titles issued in error or where the title has been illegally or wrongfully obtained or retained inter-alia. She can only come to such conclusion through investigations. By stopping

her from such investigations, this court would be fettering her powers, and throwing a clog in her investigative machinery, yet her office is duty bound to carry out investigations where there is a complaint falling within the ambits of S. 91.

The applicant has also complained that the matter has already been decreed upon by a court of competent jurisdiction hence the action of the 1<sup>st</sup> applicant investigating the matter is ultra vires.

I have not found on record any court order or decree to this effect. What is referred to by the applicant is a decree from a suit between himself and one Peter Nkeeto Bigomba, a person completely different from the complainants in this respect. The case was High Court Civil Suit No. 75 of 2012 (Jinja).

It is therefore my finding, in agreement with the 1<sup>st</sup> respondent that this application is premature in her respect in that no decision has been communicated to the applicant, and that the 1<sup>st</sup> respondent is acting intravires. I declare so.

In respect to the Attorney General, who is stated to be vicariously liable for the actions of the police who are carrying out investigations into the way the registration of the applicant on the suit land was effected, it is not in dispute that there is both a criminal and civil case going on in respect of the suit land. It is the applicant's complaint that the Police has continued to investigate this matter when the DPP said there was no case. They have also continued with the prosecution of the applicant.

With respect to the criminal matter, there is no way this civil court can interfere in the proceedings of a criminal nature, or to stop Police from performing their duties where a complaint has been raised. It is not in this court's place to even advise the applicant on what other steps to take to pursue his rights in this respect. All I can say is that this complaint is misplaced, and that should it transpire at the end of the prosecution that there was some malice on the part of the prosecution, that is when a civil case can be instituted; and that is when this court can intervene, if called upon to do so. I find that the suit against the 2<sup>nd</sup> respondent is also misconceived.

As for the 3<sup>rd</sup> respondent, it was alleged that the Administrator General moved police to investigate the applicant on allegation by the 1<sup>st</sup> respondent of fraudulent transactions on the suit land. The role of police is to investigate crime, among its other duties. And if the 3<sup>rd</sup> respondent smelt a rat in the transactions that led the applicant to register himself on the suit land, part of which the 3<sup>rd</sup> respondent was administering, they were duty bound to call on police to investigate if they thought there were some criminal offences committed in the process. The suit against the 3<sup>rd</sup> respondent is therefore misconceived and is also dismissed with costs. I so declare.

I have had to delve in matters which should have been for the main suit but this is because the parties themselves have

submitted on them. I have therefore had to dispose of this application at this juncture.

Consequently, I find that this application is premature with regard to the 1<sup>st</sup> respondent and is misconceived in respect of all the three respondents. The preliminary objections are upheld.

The main application is therefore also hereby dismissed with costs to the respondents.

It is so ordered.

**Elizabeth Musoke**  
**JUDGE**  
**5/11/2014**