

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
MISCELLENEAOUS CAUSE NO.145 OF 2023

- 1. SSEBINA DAVID**
- 2. MOSES WADDIMBA**
- 3. SSENTONGO DDIBA**
- 4. NAKAYE JENNIFFER**
- 5. NANTONGO EREESI**
- 6. SSEKITOOLEKO GEOFFREY KABAALÉ ::::: APPLICANTS**

VERSUS

- 1. PEARL DEVELOPMENI GROUP LTD**
- 2. THE KABAKA OF BUGANDA (Sued through his attorneys;
Prince D.K. Wasajja and Apollo N. Makubuya)**
- 3. BUGANDA LAND BOARD LTD 4.**
- 4. MASTULA MULONDO ::::::::::::::::::::::::::::::: RESPONDENTS**

BEFORE; HON. LADY JUSTICE NALUZZE AISHA BATALA

RULING

Introduction;

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- 1. Ssebina David, Moses Wadimba, Ssentongo Ddiba, Nakkaye
Jennifer, Nantongo Ereesi And Ssekitooleko Geoffrey Kabaale**



(hereinafter referred to as the Applicants) brought the present application against The **PEARL DEVELOPMENI GROUP LTD, THE KABAKA OF BUGANDA (Sued through his attorneys; Prince D.K. Wasajja and Apollo N. Makubuya),BUGANDA LAND BOARD LTD and MASTULA MULONDO**(hereinafter referred to as the Respondents) by way of notice of motion(ex-parte) under Section 222 of the Succession act cap.162,Order 52 Rules 1,and 2 of the Civil Procedure Rules S.I.71-1 for orders that;

- i) The applicants, as the holders of a certificate of no objection to the estate of the late Israel Ssentongo, be granted letters of administration limited to HCCS No.927 of 2019.
- ii) Costs of the application be provided for.

Background;

2. The applicants hold a certificate of no objection to the estate of the late Israel Ssentongo Sewagaba, the same applicants are plaintiffs in civil suit no.927 of 2019 pending before this honorable court. The applicants' effort to obtain letters of administration have been rendered futile since their application for the said grant was



caveated by Mr. Daniel Wasaja Ssewagaba. This has made it difficult for the applicants to proceed with civil suit no.927 of 2019 due hence this application.

Applicant's evidence.

3. The application is supported by an affidavit in support deponed by Mr. Moses Waddimba the 2nd applicant with authority to depone the affidavit on behalf of the other applicants which briefly states as follows;

- i) That the applicants hold a certificate of no objection to the estate of the late Israel Ssentongo Sewagaba, who is our father
- ii) That when the applicants applied for letters of administration vide Admin. Cause No. 223 of 2017, the said application was caveated by Mr. Daniel Wasajja Ssewagaba
- iii) This led to the institution of Civil suit No.005 of 2018 by the applicants challenging the said caveat and the suit is still pending
- iv) That consequently, for the purpose of locus standi in Civil suit No. 927 of 2019, we wish to apply for letters of



administration limited to the suit under section 222 of the Succession Act.

- v) THAT it is just and equitable that the application is granted.

Representation;

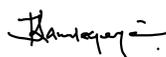
4. The applicants were represented by **Mr. John Fisher Sengoba** of J.F Ssenooba & Co. Advocates there was no representation from the respondents. The applicants filed their affidavits together with the submissions which I have considered in the determination of this application.

Issues for determination;

- i) **Whether there are sufficient grounds for the grant of letters of administration limited to the suit to the applicants?**
- ii) **What remedies are available to the parties?**

Resolution and determination of the issues;

Issue 1. **Whether there are sufficient grounds for the grant of letters of administration limited to the suit to the applicants?**



5. The Succession act cap.230 provides room for the grant of letters of letters of administration limited to the suit under section 222 which provides that ***“When it is necessary that the representative of a person deceased is made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in the suit, Limited for the purpose of representing the deceased in that suit or in any other cause or suit which may be commenced in the same or in any other court between the parties, or any other parties, touching the matters at issue in that cause or suit, and until a final decree shall be made in it, and carried into complete execution”***
6. In interpreting this provision, an application for grant of this nature is made where owing to the special circumstances of the case, the urgency of the matter as appears from the affidavit is so great that it would not be possible for the court to make a full grant in sufficient time to meet the necessities of the estate of the deceased.

H. Ameyi

7. The grant in such an application is only limited for the purpose of filing or prosecuting a suit or defending a suit, with no powers to the grantee to distribute or deal with the estate under the grant.
(See; Okway John Kimbo Vs Oddia Nuru & Anor, Misc.App No.0039 of 2016, Before Justice Stephen Mubiru)
8. The question parties would ask themselves is that whether section 222 of the Succession act cap.230 only applies to situations when there is a pending suit, I will draw reference to the decision in Hadija vs iddi(1974)EA 50 where the highcourt of Kenya in interpreting section 222 of the Indian succession act which is identical to section 222 of the succession act of Uganda held that the appointment of a personal representative may be made under that section even when there was no pending suit.
9. In the instant application, I have considered the merits of this application and I am satisfied that there is a pending suit which is civil suit 927 of 2019 instituted by the applicants who are seeking locus in the instant application. Further the applicants have presented themselves as beneficiaries to the estate of the late Israel Sentongo and they are interested in the outcome of the matter.



10. The applicants commenced the process for the issuance of letters of administration as per the certificate of no objection adduced in court but the said process is unlikely to be complete by the time of the next hearing of civil suit no.927 of 2019 as demonstrated by the applicants

11. For the above stated reasons, the court considers that the circumstances of this case call for preservation of the deceased's interest, letters of administration ad litem to be granted. Let it be known therefore that letters of administration limited to civil suit no.927 of 2019 are hereby granted for purposes of proceeding with the mentioned suit only until further representation.

12. In the final result, for the foregoing reasons the application succeeds with no order as to costs.

I SO ORDER.



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NALUZZE AISHA BATALA

JUDGE

5th / 12 / 2023