

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)

*My copy
Ankoo
13/5/2024*

MISCELLANEOUS APPLICATION NO.1140 OF 2024

5 *(Arising out of FD MA. 006 of 2024, all from Civil Suit No.395 of 2023)*

- 1. KIBIRIGE KASULE VINCENT
- 2. SENFUKA KIBIRIGE CHARLES:.....APPLICANTS

VERSUS

- 1. NAMUGA MASTULA
- 10 2. NAMUKASA NAKUBULWA FLORENCE:.....RESPONDENTS

Before: Lady Justice Alexandra Nkonge Rugadya.

Ruling.

This application seeks orders that the applicant be granted leave to amend
15 the plaintiff by adding STABEX INTERNATIONAL LTD (U), Kafeero Isaac, Yunus
Baale, Simon Nsubuga Mujambula, Charles Mbogo, Sekajja Ronald,
Ssebunya John and Nafuka Leticia as parties to **Civil Suit No. 379 of 2023.**

The grounds upon which the application is premised are contained in the
affidavit in support thereof deponed by the applicant. This court did not have
20 the opportunity to peruse it as the same were not filed on ECCMIS in **FD-MA-
006-2024** filed in the Family Division where the main suit **Civil Suit No.395
of 2023** had been transferred to.

When it was referred back to this division **FD-MA-006-2024** became **LD-MA-
1140-2024**. The pleadings were not however availed to court via ECCMIS.

25 However, from the record the applicants are two out of the four joint
administrators of the estate of the late Yowana Birigwa. The four had jointly
filed **C.S No. 395 of 2023** in respect of the suit land comprised in **Busiro
Block 263 Plot 123**, at Ssenge, Wakiso district.

Among the orders sought in that suit are that the 1st defendant therein has no kibanja interest; the understanding between the 1st and 2nd defendant be declared illegal, null and void; and a permanent injunction restraining the defendants from interfering with the suit land.

5 The instant application filed by the two administrators seeks to add nine (9) other parties as defendants to the main suit, including the co-administrators who are already co-plaintiffs in **C.S No. 395 of 2023**.

The claim is that the applicants secured a permanent injunction but the same was violated by the respondents together with *Stabex International (U)*
10 *Ltd* and Yunusu Baale in constructing a petro station thereon based on an agreement entered into by the respondents; Leticia Nanfuka and Sebunya John who sold part of the suit land and caused several subdivisions along with their assignees/agents; and that any orders made in the main suit will affect all these parties' interests; and their addition is necessary in
15 determining the main suit to avoid multiplicity of suits.

The respondents in their submissions contended that the application is incompetent because it is brought under **O1 r 10(2) of the Civil Procedure Rules** by chamber summons.

That the application was brought without the consent and approval of the
20 other administrators, while the main suit under which the application arises was filed by all the administrators of the estate of the late Yowana Birigwa; and as such the application is defective on the ground that the applicants have no *locus standi*.

That there is insufficient proof of alleged transactions or interest claimed by
25 the parties to be added to the suit.

Consideration by court.

Order 6 rule 19 of the Civil Procedure Rules SI 71-1 governs the amendment of pleadings, empowering court at any stage of the proceedings to allow either party to alter or amend their pleadings in such a manner, and
30 on such terms as may be just. All such amendments are to be made as may