

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
MISCELLANEOUS APPLICATION NO.2442 OF 2021
(Arising from Civil Suit No. 419 of 2015)

1. MIREMBE RACHEAL
2. NAMUBIRU JOYCE :::::::::::APPLICANTS/DEFENDANTS

VERSUS

1. NABBANJA MARIAM
2. NABBANJA MADINA
3. SALIMU SSEMITALA
4. REHEMA NACEEJWE
5. SENTAMU ABDUL
6. NAMATOVU ABDU :::::::::::RESPONDENTS/PLAINTIFFS

BEFORE HON LADY JUSTICE KANYANGE SUSAN

RULING

The applicants brought this application by way of Chamber Summon under Section 98 of the Civil Procedure Act cap 71, Section 33 of the Judicature Act Cap 13, Order 6 Rule 28 and 29, Order 7 Rules 11(a), 11(e) and 19 of the Civil Procedure Rules S1 71-1. Seeking for orders that:

- a) Civil Suit No. 419 of 2015 does not disclose a cause of action against the 4th and 5th Defendant/Applicants.***
- b) Civil Suit No. 419 of 2015 is frivolous and Vexatious as brought against 4th and 5th Defendant/ Applicants.***
- c) Costs of this application be provided for.***

The application was supported by an affidavit deposed too by the 1st applicant **Mirembe Racheal**, the respondents opposed the application.

BACK GROUND:

The respondents are beneficiaries in the Estate of Late Musa Segibwa formerly of land (kibanja) comprised on Block 9 plot 486 land at Kagugube Makerere. On the 21st day of August, 2015 they instituted Civil Suit No. 419 of 2015 in the High Court Land Division at kampala against three defendants who were; Margret Kibuuka Nakibuuka, Douglas Gawuluguma, Commissioner Land Registration. Seeking among other orders that; the commissioner land registration cancels the first defendant from the title. Later on 24th day of February, 2021 the respondents/ plaintiffs filed an amended plaint and included the applicants/ 4th and 5th defendants wherefore the 5th defendant is the registered proprietor on the suit land.

It is upon that background that the applicants/ 4th and 5th defendant filed witness statements and later filed the present application in which they raised preliminary points of law which they seek this court to determine first.

Issues

1. Whether the applicants' application is fatally defective?
- 2 Whether Civil Suit No. 419 of 2015 discloses a cause of action against the applicants/4th and 5th defendant?
- 3 Whether Civil Suit No. 419 of 2015 is frivolous, vexatious and an abuse of Court process?
- 4 What are the remedies available?

ISSUE No. 1

Whether the applicants' application is fatally defective?

The respondents in the present application submitted that the Chamber Summon, which was served to the respondents is fatally defective, irregular, improper and it has no force of law. That it was