

THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA  
(LAND DIVISION)  
MISCELLANEOUS APPEAL NO.03 OF 2023  
(ARISING FROM MISCELLANEOUS APPLICATION NO.1164 OF 2022)  
(ARISING FROM CIVIL SUIT NO.394 OF 2022)

SEWAYA MUHAMMAD----- APPELLANT/PLAINTIFF

VERSUS

1. KIKONYOGO INVESTMENTS LTD
2. HABA GROUP (U) LTD ----- RESPONDENTS/DEFENDANTS
3. DAMANICO PROPERTIES LTD
4. COMMISSIONER LAND REGISTRATION

**RULING**

**BEFORE HON. LADY JUSTICE KANYANGE SUSAN**

This appeal was brought under S.98 Civil Procedure Act. S.33 Judicature Act cap13, Order 50 Rules 6 and 8 Civil Procedure Rules.

It seeks for orders that;

1. The ruling and Orders issued by the Learned Assistant Registrar on 05<sup>th</sup> October 2022 in HCMA No.1164 of 2022 dismissing the same be reversed and or set aside.
2. HCMA No.1164 of 2022 be granted)
3. Costs of this application be provided for.

The appeal was supported by Affidavit of Sewaya Muhammed but briefly the grounds are;

- a. The learned Registrar erred in law and fact when she deliberately failed to follow the established tests required in granting of Interim Order thereby dismissing appellants' application and occasioning a miscarriage of justice.

- b. The learned Registrar erred when she despite having found that there was evidence of threat on usage of disputed land and houses under construction on suit land dismissed the appellants' application.
- c. The learned Registrar erred in law when she deliberately ignored the description of the appellants kibanja and or equitable interest on subject land originally Kyadondo LRV 135 folio 17 Block 270 that was unlawfully sub-divided to create among others FRV 429 folio 5 plot 103 Busiro Block 537 Wakiso, FRV 356 Folio 12 plot 1073 Lubowa Mpigi, folio 432 folio 23 plot 102, Busiro Block 537 Wakiso, FRV 380 folio 6 plot 697 at Lubowa Estate Mpigi, a fact admitted by respondents but instead delved into current registration.
- d. The learned Registrar erred in law and fact when she ignored the overwhelming evidence on record and admissions by the respondents over the disputed land under threat and based on issues of current registration though duly admitted by the 3<sup>rd</sup> respondent and ownership a reserve of the Judge.
- e. The learned Registrar erred when she deliberately ignored the 1<sup>st</sup> and 2<sup>nd</sup> respondents' admissions both in their replies to the application for an interim order and their respective submission on subject land claimed by the appellant and the threat thereon, thereby occasioning a miscarriage of justice.
- f. The learned Registrar erred when she ignored that appellants' interest stems from his unregistered kibanja occupation and forceful dispossession on part of the subject land that was originally comprised on LRV 135 Folio 17 from which the 5 acres at Lweza B and 154 acres at katiko- Birongo are and admitted by the respondent from which he was disposed in 2020, and not registration which interest continues to be under threat of further subdivision by the respondents.
- g. The learned Registrar erred by delving into procedural technicalities against subsistence thereby occasioning a miscarriage of justice.

The 1<sup>st</sup> and 2<sup>nd</sup> respondents filed affidavits in reply. They averred that the appellant did not show proof of possession of the 154 acres of