

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
HOLDEN AT MBALE

HCT-04-CR-CR-0001-2012

(FROM MISC. APPLICATION NO. 75/2011)

(FROM MISC. APPLICATION NO. 32/2010)

(FROM CIVIL SUIT NO. 38/2010)

1. MOSES NAMUNYALA

2. WAMBOGA DEO.....APPLICANTS

VERSUS

KIBISI SILVERRESPONDENT

BEFORE: THE HON. MR. JUSTICE MUSOTA STEPHEN

REVISION ORDER

An order in Revision was sought by the learned Chief Magistrate vide her letter dated 28th November 2011 echoing a complaint by M/s Owori & Co. Advocates.

After perusing the view expressed in the respective correspondences and studying the record I am in agreement with the learned Chief Magistrate that whereas O.41 r. 4 CPR gives a trial court mandate to discharge, vary and set aside an order for injunction the trial Magistrate in this case erred in varying the terms of a temporary injunction granted by consent of both parties and their advocates, in the absence of the other party.

The background to this matter is that on 11th May 2011 court granted a temporary injunction with the consent of both parties and counsel restraining both sides from interfering, trespassing, entering and or doing anything with the suit land situate at Bunabandya village, 2 pieces in Mukudu village and one in Bunamudongo in Bukesa village until the disposal of the main suit. But on 5th June 2011 the same court without informing all parties vacated the order of 11th May 2011 and replaced it with an order changing the terms of consent.

This was irregular and denied one party its inviolable right to a fair hearing.

The subsequent order is hereby vacated. Let the trial court hear the request for variation of the consent order interparties given that this is a land dispute or fix the suit for hearing expeditiously.

Stephen Musota

JUDGE

16.02.2012