

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**LAND DIVISION**  
**MISC. CAUSE NO. 89 OF 2022**

**ABBAS MUSISI .....APPLICANT**

**VERSUS**

- 1. KAZIBWE AMOS SAJJA**
- 2. COMMISSIONER LAND REGISTRATION.....RESPONDENTS.**

**BEFORE HO. LADY JUSTICE FLAVIA NASSUNA MATOVU**

**RULING**

The applicant filed this application seeking for removal of caveat that was lodged on land comprised in Kibuga Block 5 Plot 1000 at Mulago. It was filed under the provisions of S. 140 of the Registration of titles Act , S.98 of the Civil Procedure Act and 0.52 rr 1 and 2 of the Civil Procedure Rules. It was brought by notice of motion which was supported by an affidavit sworn by the applicant. The grounds of the application were laid in the notice of motion and affidavit in support. Briefly the grounds were that;

- a) The applicant is the registered owner of land comprised in Kibuga Block 5 Plot 1000 at Mulago.
- b) The 1<sup>st</sup> Respondent lodged a caveat on the said land even though he does not have any interest in the same.
- c) The applicant is desirous of dealing with the said land but he cannot do so in light of the said caveat.

The Respondents were duly served with this application but did not file any affidavit in reply. The 1<sup>st</sup> Respondent was specifically served by way of substituted service.

The applicant filed written submissions in this case which I have carefully studied together with the relevant law. Having carefully studied this casefile I noted as follows:

- a) The applicant is the registered proprietor of the land in question having been registered as such on 8<sup>th</sup> July 2008.
- b) The 1<sup>st</sup> Respondent lodged a caveat on the said land on 31<sup>st</sup> July 2008.
- c) The 2<sup>nd</sup> Respondent communicated to applicant by letter dated 22/6/2022, that this caveat could not be lapsed because it was a beneficiary's caveat.

Therefore, the issue to be decided by this court is whether the caveat that was lodged by the 1<sup>st</sup> respondent on the land in question can be vacated.

S.139 of the Registration of titles Act allows a beneficiary to lodge a caveat on registered land forbidding further dealings on the land without notifying him or her.

S.140 of the same Act requires the Registrar of titles to notify the registered proprietor that a caveat has been lodged on his title and the proprietor is expected to summon the caveator to attend before court to show cause why the caveat should not be removed.

In the instant case it is clear that after the registered proprietor who is the applicant learnt that 1<sup>st</sup> Respondent had lodged a caveat on his land, he filed the instant application whereupon the 1<sup>st</sup> Respondent was summoned . Unfortunately, the 1<sup>st</sup> Respondent neither filed any affidavit in reply nor appeared at court on the date set.

S.140 further provides that the court, may upon proof that the caveator has been summoned, make such order in the premises *exparte* or otherwise.

In the case before me it is clear that the 1<sup>st</sup> Respondent who is the caveator was served with this application as shown in the affidavit of service dated 10/11/2022 and filed at court on the same day.

I also note that the caveat was lodged on 31/7/2008 which is close to 15 years ago. There is nothing on record to show that after lodging the said caveat, the 1<sup>st</sup> applicant took any steps to further prove his claim or interest in the said land. Caveats are intended to give temporary protection/relief to the caveator to enable him or her take necessary steps to establish his or her claim on the land . They are not intended to stay of the register for ever. In a case like the one before court, where a caveator has not taken any steps after lodging the caveat 15 years ago, the court would have no option but to order its removal so that the registered proprietor can ably deal with his land.

This application is accordingly hereby granted and it is hereby ordered that the caveat that was lodged on land comprised in Kibuga Block 5 Plot 1000 at Mulago by one Kazibwe Amos Sajja be vacated.

The applicant shall meet his costs for this application.

DATED at Kampala this.....<sup>5<sup>th</sup></sup>..... Day of .....<sup>July</sup>..... 2023.

  
HON. LADY JUSTICE FLAVIA NASSUNA MATOVU