

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

(LAND DIVISION)

MISCELLANEOUS APPLICATION NO.1472 OF 2022

5 *(Arising from Civil Suit No.292 of 2021)*

JOHN BOSCO MUWONGE:.....APPLICANT

VERSUS

**1. FATUMA ABDALLA (Administrator
of the Estate of the Late RAJAB SALIM)**

10 **2. MUSIIME R. MUZUNGU ADREEN JULIE:.....RESPONDENT**

Before: Lady Justice Alexandra Nkonge Rugadya.

Ruling.

Introduction.

15 This application brought by way of chamber summons under the provisions of **Section 98 of the Civil Procedure Act cap.71, and Order 7 rules 11 (d), (e), & 19 of the Civil Procedure Rules SI 71-1** seeks orders that **Civil Suit No.292 of 2021** be rejected or struck out for being frivolous, vexatious, failing to disclose a cause of action against the applicant, and for being statute barred. It also seeks orders that the applicant be granted costs of the application, and the main suit.

20 The grounds upon which the application is premised are contained the affidavit in support thereof deponed by Mr. John Bosco Muwonge, the applicant herein. He stated that the plaint should be struck out because it does not disclose a cause of action against him, and that the suit is not only barred by law but also frivolous and vexatious thus the same should be rejected or dismissed.

25 That the applicant lawfully acquired the subject land from persons who represented themselves as the administrators of the estate of the late Rajab Salim vide **Administration Cause No.17 of 1989** and that they handed him the genuine duplicate certificate of title as well as the transfer forms, and that he immediately took possession of the suit land without any incident and has continued to enjoy and utilize the land without any interference since
30 2011.

The applicant admitted that the 1st respondent ought not to have been party to this application. The 2nd respondent however raised issues of forgery of her signature on the transfer form. Details of their arguments are all on record.



Fraud is a grave allegation which requires evidence in a formal trial. This application raises a number of triable issues which cannot be disposed of by court before giving the 2nd respondent a hearing on the evidence that she intends to adduce against the applicant and the 1st respondent.

- 5 I therefore decline to grant this application. I will however allow the applicant to raise the issues in this application during the scheduling.

Costs to the respondents.

Ambony
Alexandra Nkonge Rugadya

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Judge

12th June, 2023

*Delivered via mail
Ambony
13/06/2023*