

THE REPUBLIC OF UGANDA

IN THE HIGH OF UGANDA AT KAMPALA

CIVIL SUIT NO. 446 OF 2021

NAMITALA DOROTHY & 4 OTHERS.....PLAINTIFFS

5 (All beneficiaries of the estate of the late Kosia Mayanja)

VERSUS

JIM LORD FRANSCISCO KIKABI.....DEFENDANT

AND

CIVIL SUIT NO. 580 OF 2022

10 NALUBEGA TEOPISTA & 5 OTHERS

(Beneficiaries of the estate of the late Fred Sekweyama Sempa

.....PLAINTIFFS

VERSUS

JIM LORD FRANSCISCO KIKABI & 3 OTHERS.....DEFENDANT

15 AND

CIVIL SUIT NO. 701 OF 2021

MAYANJA GEOFFREY & 5 OTHERS.....PLAINTIFFS

VERSUS

JIM LORD FRANSCISCO KIKABI.....DEFENDANT

20 Before: Lady Justice Alexandra Nkonge

**RULING:**

**Civil suit No. 446 of 221** was filed by the beneficiaries of the estate of the late Kosia Mayanja against Jim Lord Francisco Kikabi who is also one of the defendants in **Civil Suit No. 580 of 2021** which was filed by six beneficiaries of the estate of the late Fred Sekweyama Sempa.

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The same Jim Lord Francisco Kikabi is also the defendant in **Civil Suit No. 701 of 2022**. This suit was also filed by the beneficiaries of the late Fred Sekweyama Sempa.

5 **Civil Suit No. 580 of 2022** was initially allocated to Lady Justice Jane Alividza. The subject matter is a *kibanja* located in Nsambya West LC1 Maria Road, Makindye Division the ownership of which is in dispute.

At the preliminary hearing parties sought guidance of court on the possible consolidation of the three suits or consolidation of two of them and possible withdrawal of one or two of them.

10 Court was also informed that an application: **MA No. 621 of 2023** had been filed under **Civil Suit No. 580 of 2022** seeking consolidation of the suits. It was yet to be fixed for hearing.

Both **Civil Suit No. 580 of 2022 and MA No. 621 of 2023** (arising under that suit) were thereafter referred to this court for consideration.

15 **Decision by court:**

Where two or more suits are pending, this court has powers under **Order 11 of the CPR** to make an order for the consolidation of suits and direct that further proceedings in any of the suits be stayed, until further orders are made.

20 Upon reading the pleadings in each of the three suits, it is noted that the plaintiffs in **Civil Suit No. 446 of 2021** are beneficiaries of the late Kosiya Mayanja who had filed the first suit in this court.


On the other hand however, the plaintiffs in **Civil Suit No. 580 of 2022** and **Civil Suit No. 701 of 2021** are beneficiaries under the same estate of the late Fred Ssekweyama Sempa.

25 In light of those findings it would only be fair for the order of consolidation to issue, in the following manner:



1. *Since the plaintiffs in both Civil Suit No. 580 of 2022 and Civil Suit No. 701 of 2021 are nearly all the same, the two suits shall be merged to create only one single suit: Civil Suit No. 701 of 2021, to be consolidated with Civil Suit No. 446 of 2021 as the main suit.*
- 5 2. *The amended complaint shall be filed and served to each of the defendants whose names appear in Civil Suit No. 580 of 2022, within 30 days.*
3. *The defendants shall file an amended defence within 14 days of receiving the amended complaint.*
- 10 4. *This court in exercise of the discretion entrusted to it by virtue of section 33 of the Judicature Act, Cap. 13, and in order to avoid the multiplicity of actions concerning the same subject matter between the same/similar parties/claimants, orders the withdrawal of Civil Suit No. 580 of 2022 (which was filed after Civil Suit No. 701 of 2021).*
- 15 5. *MA No. 621 of 2023 is overtaken by events.*
6. Costs:

The plaintiffs appearing in both **Civil Suit No. 580 of 2022** and **Civil Suit No. 701 of 2021** shall pay the costs of the amended defence incurred by the defendant who appears in both suits.

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**Alexandra Nkonge Rugadya**  
**Judge**  
**15<sup>th</sup> June, 2023**

*Delivered by bail*  
*Alex*  
*15/6/2023*