

UGANDA / JUDGMENT

Bwanika Trevor Lukanga v Kiyingi Hannington and Another (Miscellaneous Application 240 of 2024) [2025] UGHC 371 (29 May 2025)

[2025] UGHC 371

COURT

High Court of Uganda

BEFORE

Bukirwa, J

CASE / FILE NUMBER

Miscellaneous Application 240 of 2024

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THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT LUWERO
MISCELLANEOUS APPLICATION NO. 240 OF 2024 [ARISING FROM CIVIL SUIT NO.
90 OF 2023]

BWANIKA TREVOR LUKANGA::::::::::::::::::::::::::::::::: APPLICANT

VERSUS

1. KIYINGI HANNINGTON (Administrator of the estate of the late Kopuliyano
Kiyingi)

2. SAM SSEWAGUDDE SSALONGO (Administrator of the late Sserunkuuma) Both suing
through their Lawful Attorney KATO JAMES KABERU :::::::::::::::::::::::::::::::
RESPONDENTS

RULING

Background

This application is brought under Section 98 of the Civil Procedure Act Cap. 282, Section 33 of the Judicature Act, Cap. 16, Section 176 (c) of the Registration of Titles Act, Cap. 240, Order 6 Rules 28, 29, & 30 of the Civil Procedure Rules, Order 7 Rules 1 & 11 and Order 52 Rules 1, 2, & 3 of the Civil Procedure Rules seeking declarations that;

- 1. Civil Suit number 90 of 2023 (Kiyangi Hannington & Another Vs. Matovu Ronald & 12 Others) is incompetent and liable to be struck out or summarily dismissed having been commenced by Kato James Kaberu, as a purported Attorney of the Plaintiffs, on the basis of an illegal and incompetent Power of Attorney.
- 2. The Respondents'/Plaintiffs' action is barred by the law of limitation and therefore the same is liable to be summarily dismissed.
- 3. The suit does not disclose any valid cause of action in favour of the Plaintiffs/Respondents against the Applicant/Defendants. HCCS No. 90 of 2023 should therefore be dismissed for being incompetent, frivolous and vexatious and is an abuse of court process.
- 4. The Applicant be awarded costs of the suit and costs of this application.

The grounds in support of this application were contained in the Affidavit in support of this application deposed by Bwanika Trevor Lukanga, but are briefly stated below;

- 1. High Court Civil suit No. 90 of 2023 (Kiyangi Hannington & Another Vs. Matovu Ronald & 12 Others) was commenced by Kato James Kaberu on behalf of the administrators of the late Kopuliyano Kiyangi and the Late Sserunkuma on the basis of an incompetent and illegal Power of Attorney.
- 2. The Respondents'/Plaintiffs' suit vide HCCS No. 90 of 2023 does not disclose any valid cause of action in their favour against the Applicant.
- 3. The Respondents'/Plaintiffs' action is barred by the law of limitation as they claim interest in land formally comprised in Bulemezi Block 806 Plots 1 and 2 which was long extinguished by the several subsequent transactions in the land preceding the 5th Defendant's acquisition from whom the 11th Defendant acquired the suit land stemming back from 1977 when the 5th Defendant's predecessor, Yoweri Sebunya was registered as the proprietor on the 9th December 1997 thereby rendering the suit incompetent.
- 4. High Court Civil Suit No. 90 of 2023 (Kiyangi Hannington & Another Vs. Matovu Ronald & 12 Others) is unmaintainable in law.
- 5. The Applicant has been subjected to unwarranted litigation in defending an incompetent suit /claim.
- 6. It is in the interest of justice that this application and the orders sought be granted.

The Respondents opposed the application through an affidavit deposed by Kato James Kaberu and prayed that the application be dismissed with costs to the office of the respondents.

In the determination of this application, the court shall adopt the issues that are raised by the applicants in the instant suit to wit;

- 1. Whether the respondents' suit vide HCCS No. 90 of 2023 is incompetent and liable to be struck out.
- 2. What are the remedies available to the parties?

Representation

The Applicant was represented by M/S Magna Advocates while the Respondents were represented by M/S Kafeero & Co. Advocates.

Determination of the Application

Before I decide this Application, I have noted that the Respondent did not file his written submissions despite having been directed to do so by the court. The Respondent has not provided any satisfactory reason for his non-compliance which leaves me with no option but to proceed and determine this application immediately. **See Order 17 rule 4 of the Civil Procedure Rules; Byaruhanga Joseph V Nalongo Elizabeth Wandera, HCCA No. 0062 of 2014.**

Issue 1: Whether the Respondents' suit vide HCCS No. 90 of 2023 is incompetent and is liable to be struck out

Submissions by Counsel for the Applicant.

Counsel for the Applicant submitted that Order 6, Rules 28 and 29 of the Civil Procedure Rules constitute the law that confers upon the court discretionary power to determine a suit based on preliminary objections of law if they are capable of disposing of the entire suit. Under the provisions of this law, a Defendant can either orally or by formal application challenge the competence of the suit on points of law which are capable of disposing of the suit.

He went ahead and raised four preliminary objections, the first being that the suit is incompetent, having been commenced by Kato James Kaberu as the purported Attorney of the Plaintiffs on the basis of an illegal and incompetent Power of Attorney. Citing Section 176 of the Succession Act, Counsel for the Applicant submitted that an administrator of a deceased person is his or her legal representative for all purposes and all property of the deceased person vests in him or her as such. Letters of administration accord the administrator all rights belonging to the intestate. He submitted that in the current circumstances, this suit should have been brought by the administrators of the estate of the late Kopuliyano Kiyangi and the late Sserunkuuma, respectively and not by a lawful Attorney.

Counsel submitted that much as it is settled law that the law allows a party to bring an action and enter an appearance through a lawfully authorised agent who may include an attorney, it is also settled law that for a suit to be competently brought by an attorney on behalf of a donor, the power of an attorney must be valid within the confines of the law. Where a suit is instituted by or through an attorney based on an incompetent power of attorney, the suit is a nullity and is liable to be struck out.

Counsel further submitted that the Power of Attorney issued in favour of Kato James Kaberu upon which he filed the suit was defective and no valid suit could be filed and maintained on that basis. He raised two reasons why he argued that the Power of Attorney was incompetent. Firstly, he made an argument that

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pursuant to Section 146 (1) (2) of the Registration of Titles Act, a power of attorney in respect to land can only be issued by the registered proprietor of that land. In the instant case, the Plaintiff confirms that the late Semu Kiyangi, the late Kopuliyano Kiyangi, the late Sserunkuma and the Plaintiffs who are the administrators of the late Kopuliyano Kiyangi and the late Sserunkuma have never been registered as the proprietors of the suit. Therefore, none of the above-mentioned people ever had the right to grant Powers of Attorney in respect to the suit land since they were not registered proprietors of the suit land.

The second reason presented by the Applicant's Counsel was that a Power of Attorney purportedly granted by the administrator of the estate is incurably defective because the law stipulates that the administrator of an estate is required and expected to perform his functions fully and should not delegate his role.

The second preliminary objection raised by Counsel for the Applicant was that the Plaintiffs cannot maintain an action in trespass against the 5th and 11th Defendants because the Plaintiffs have never been in possession and are not the registered proprietors of the suit land. For this reason, the suit is incompetent. He relied on the decision in **Civil Appeal No. 11 of 2002, Justine E. M. N Lutaaya Vs Sterling Engineering Company Limited**.

The third preliminary objection raised by Counsel for the Applicant was that the suit does not disclose any valid cause of action in favour of the Plaintiff as against the 5th and 11th Defendant.

Finally, the fourth point of law raised by Counsel for the Applicant was that the Plaintiff's action is barred by the law of limitation as the claimed interest in land formerly comprised in Bulemezi Block 806 Plots 1 & 2 was long extinguished by several subsequent transactions in the land preceding the 5th and 11th Defendants acquisition, stemming back from 1977 when the 5th and 11th Defendant's predecessor in title Yoweri Sebunya was registered as the proprietor on 9th December 1977 thereby rendering the suit incompetent.

Decision

It is trite law under **Order 6 Rule 28 of the Civil Procedure Rules** that points of law may be raised by the parties to a suit and disposed of by the court either at or after the hearing as hereunder.

"28. Points of law may be raised by pleading.

Any party shall be entitled to raise any point of law by his or her pleading. Any point so raised shall be disposed of by the court at or after

the hearing, except that by consent of the parties or by order of the court on the application of either party, a point of law may be set down for hearing and disposed of at any time before the hearing."

This position has also been held in the cases of **Francis Xavier Ssempira Vs Aline Nabami Kaboy, Civil Suit No. 877 of 2021** and **Mathias Lwanga Kaganda V UEB Civil Suit No. 124 of 2003**. It is on the basis of the said provisions of the law that I shall determine and dispose of the points of law raised by the applicant in the instant Application.

In doing so, I shall deal with the first, second, and third points of law all at once since they all concern the issue of whether there is a cause of action against the Applicant. I have noted that the Applicant's submission has been geared towards proving that Kato James Kaberu does not have the locus standi to commence this suit on account of defective Powers of Attorney that were granted to him with the aim of enabling him to institute the main suit on behalf of the Respondents.

It is settled law that before a litigant seeks to invoke the inherent powers of court or discretion or exercise of its inherent powers as to remedies, it is often incumbent upon the party coming to court to ensure that he or she is clothed with the appropriate ability to move court and to set the law in motion otherwise court would strike out and dismiss or discontinue such suits. See **Yuriko Investment Company Limited Vs Administrator General & Another, Civil Suit no.271 of 2018;* *Kantiti Edward Vs Lumala Moses, Civil Suit No. 902 of 2020.** It is for that reason that I shall focus on determining whether Kato James Kaberu was clothed with the appropriate mandate to commence this suit.

It is stated under **Order 3 Rule 1 of the Civil Procedure Rules** that appearances or acts in any court required by law to be done by a person may be done by their recognised agent, who, according to **Order 3 Rule 2 of the Civil Procedure Rules**, includes persons holding Powers of Attorney. The acts that are envisaged under Order 3 Rule 1 of the CPR extend to cover the commencement of any suit before a court of law. However, where a person commences a suit in a representative capacity, such a person has to show the steps taken to institute the suit in that capacity. This position is envisaged under **Order 7 rule 4 of the Civil Procedure Rules**, which states that;

4. When plaintiff sues as representative.

Where the plaintiff sues in a representative character, the plaint shall show not only that he or she has an actual existing interest in the subject matter but that he or she has taken the steps, if any, necessary to enable him or her to institute a suit concerning it.

From the heading of the suit and paragraph 1 of the Plaint, it is clear that Kato James Kaberu commenced Civil Suit No. 90 of 2023 in his capacity as the lawful attorney of the Kiyangi Hannington (Administrator to the estate of the late Kopuliyano Kiyangi) and Sam Ssewagude Ssalongo (Administrator of the estate of the late Sserunkuma). He went ahead and attached the executed Powers of Attorney to the Plaint as *Annexures A1 and A2.*

The Applicant in the instant suit is challenging the Powers of Attorney which Kato James Kaberu relied on to obtain locus to commence this suit. Having read the Applicant's submissions, I have deduced two major points from this point of law; firstly, that the Powers of Attorney issued by the 1st and 2nd Respondents in favour of Kato James Kaberu concerning the suit are defective by virtue of the fact that the Respondents are not the registered proprietors of the suit land which prevents them from issuing Powers of Attorney in respect of the suit land. Secondly, that the Respondents, each being an administrator of an estate of a deceased person, cannot issue a Power of Attorney in favour of a third party.

Concerning the first point, counsel for the Applicant made an argument that pursuant to Section 146 (1) of the Registration of Titles Act, the only person who can issue a Power of Attorney in respect to land under that Act is the registered proprietor of that land. As such, since the Respondents are not the registered proprietors of the suit land, they could not purport to issue Powers of Attorney to Kato James Kaberu. Counsel relied on the Court of Appeal decision in **Prince David Wasajja Versus Sarah Nabuwule & Others CACA No. 370 of 2021** to buttress his position. I, however, find this argument misconceived both in fact and in law, as I shall demonstrate below.

A power of attorney is an instrument in writing whereby one person, as the principal, appoints another as the agent and confers authority on that person to perform certain specified acts or kinds of acts on behalf of the principal. It is a document authorising one to be a person's agent or attorney. See **Frederick J. K Zaabwe V Orient Bank Ltd and 5 others, Supreme Civil Appeal No. 04/2006**. Generally, a power of attorney can be issued just to confer a right to an agent/donee. Those rights range from the ability to sue on behalf of the principal, the right to enter into contracts, and the right to execute tasks, among others. A power of attorney can be issued pursuant to different laws, such as Order 3 Rule 2 of the Civil Procedure Rules, which allows for representation in court, section 130 (1) of the Registration of Titles Act, which is the subject of this preliminary objection, among other laws.

Under Section 130 (1) [formerly 146 (1)] of the Registration of Titles Act, the law recognises a Power of Attorney that can be executed specifically concerning land registered under that Act. Section 130 (1) of the Registration of Titles Act states;

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130. Power of attorney and revocation of the power of attorney

(1) The proprietor of any land under the operation of this Act or of any lease or mortgage may appoint any person to act for him or her in transferring that land, lease or mortgage or otherwise dealing with it by signing a power of attorney in the form in the Sixteenth Schedule to this Act.

The Power of Attorney envisaged under Section 130 (1) of the Registration of Titles Act aims to provide a proprietor of land with an avenue to have an agent execute tasks on their behalf concerning the registered land belonging to that proprietor. Such tasks include transferring land, leasing, mortgaging, or any other dealings in respect of that land. Where a donee of Powers of Attorney is granted the authority to deal with the land of their principal, by extension, that power may include commencing or defending a suit regarding the land subject to the power of attorney. This is precisely what the Respondents in **Prince David Wasajja Versus Sarah Nabuwule & Others supra** attempted to do. In that case, a power of attorney was purportedly issued in 2005 by the Respondents to Dr. Mohammed Buwule Kasasa, authorising him to deal with the suit land from which he later derived the authority to commence the suit in the court of first instance. Unfortunately, by the time the Respondents issued that power of attorney concerning the suit land, they were no longer proprietors of that land, which meant that they did not possess the power to issue a power of attorney regarding that land, in accordance with the then Section 146 of the RTA. I will quote an extract of that decision in **Prince David Wasajja Versus Sarah Nabuwule & Others supra** for emphasis:

"... Section 146(1) of the Registration of Titles Act CAP 230 provides that the proprietor of any land under the operation of this Act or of any lease or mortgage may appoint any person to act for him or her in transferring that land, lease or mortgage or otherwise dealing with it by signing a power of attorney in the form in the Sixteenth Schedule to this Act.

Paragraph 7 of the plaint shows that the respondents' lease expired on 16th March, 1998. The learned trial judge found that the powers of attorney on record were issued in 2005 at the time when the donors were no longer proprietors of the suit land and therefore had no capacity to grant powers of attorney as proprietors of the land.

The Learned Trial Judge rightly struck off the Power of Attorney from the record because the said Power of Attorney had no legal effect, having been granted in 2005, the time when the donors were no longer proprietors of the suit land.

It is not in dispute that the Civil Suit No.36 of 2014 was commenced by the Powers of Attorney granted to Dr. Muhammad Buwule Kasasa by the respondents.

...

The respondents' act of giving powers of attorney to deal with the suit land yet they were not the registered proprietors, including the power of commencing a suit by their attorney was void and hence a nullity..."

Given this understanding, I believe that the Power of Attorney under Section 130 (1) of the Registration of Titles Act addresses a scenario in which the principal is vesting the agent with powers to primarily deal with his land. The authority to initiate or defend a suit is merely ancillary to the power to deal with the land in question. So, the question I now need to address is whether the power of attorney issued by the Respondents to Kato James Kaberu purported to give him power to deal with the suit land.

It is settled law that the purpose of a Power of Attorney can only be deduced from its wording.

See Prince David Wasajja Versus Sarah Nabuwule & Others Supra. Having examined the Power of Attorney issued by each of the Respondents, I am convinced that its purpose was to grant Kato James Kaberu the authority to commence a suit for the recovery of the suit land and any activities incidental to that purpose. Clearly, the donors intended to appoint Kaberu as their agent to commence proceedings to recover land purportedly formerly owned by their forefathers. There is no clause in the powers of attorney which speaks to giving Kato James Kaberu the authority to deal with the suit land. Given this, the Power of Attorney issued by each of the Respondents is not one envisaged under section 130 of the Registration of Titles Act, and any attempt to apply that provision of the law to those Powers of Attorney would amount to a gross misconception of the law. In fact, I believe that the Powers of Attorney were issued pursuant to Order 3, Rule 2 of the Civil Procedure Rules, which allows for the representation of a party in a suit.

As the Powers of Attorney issued by the respective Respondents did not grant Kato James Kaberu any authority to deal with the suit land, the strict parameters regarding the execution of a Power of Attorney under Section 130 (1) of the Registration of Titles Act do not apply. For this reason, I find that the submission by counsel for the Applicant regarding Section 130 of the Registration of Titles Act, concerning the powers of attorney that are the subject of this application, is misconceived. On the second point, counsel submitted that the Powers of Attorney issued by each of the respective Respondents are defective because the administrators of the estates of deceased persons cannot delegate their roles.

Section 176 of the Succession Act Cap. 268 states that the executor or administrator, as the case may be, of a deceased person is his or her legal representative for all purposes, and all property of the deceased person vests in him or her as such.

Section 261 of the Succession Act Cap. 268 states that after any grant of probate or letters of administration no person other than the person to whom the same has been granted shall have the power to sue or prosecute any suit or otherwise act as a representative of the deceased until the grant has been recalled or revoked.

Section 176 of the Succession Act is very clear that the administrator of the estate of a deceased person is the legal representative of the deceased person, which therefore means that all acts done by the administrator are done in a representative capacity. Section 261 of the Succession Act extends this representation to cover the institution and defending of suits by or against the estate of the deceased, as the case may be. Therefore, a legal representative of a deceased person cannot purport to also delegate the power he or she is holding in a representative capacity more so since that power was granted to him through an order of the court. An attempt to delegate that power granted to him by the court would mean usurping the powers of the court. This is the position that has been held in the cases of **Nakabuye Agnes versus Martin Stokes, HCMA. No.38 of 2021**, **Juliet Bbosa Namitala V Louis Bakyenga and Ors HCMA No. 1535 of 2021**; **Rose N. Namukasa V Namaya Mayanja Margaret HCMA No. 890 of 2024**.

I, therefore, agree with Counsel for the Applicant that Kiyingi Hannington (Administrator to the estate of the late Kopuliyano Kiyingi) and Sam Ssewagude Ssalongo (Administrator of the estate of the late Sserunkuma) cannot delegate their statutory mandate to commence and represent the estate of the respective deceased person. Therefore, the Powers of Attorney issued by Kiyingi Hannington (Administrator to the estate of the late Kopuliyano Kiyingi) and Sam Ssewagude Ssalongo (Administrator of the estate of the late Sserunkuma) respectively in favour of Kato James Kaberu are incompetent and cannot be relied upon by this court.

Having found that the Powers of Attorney are incompetent, I am left with no option but to find that Kato James Kaberu does not have locus standi in this case. It is a settled position of the law that a party should be clothed with locus standi at the time of commencing an action. (See **Fakhruddin Vallibhali Kapasi & Anor v Kampala District Land Board & Anor, HCCS No 570 of 2016**) (**Samuel Mubiru Kizito v Edward Sekabanja Kato T/A Sekabanja and Co Advocates MA No. 1844 of 2022**)

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Locus standi determines whether the Plaintiff has the capacity to institute the suit before the court. Such capacity must be one of a right or derived from a particular provision of the law, for instance the capacity to bring a suit as legal representative of a deceased person is prescribed under Section 261 of the Succession Act. It would be preposterous for a court to entertain a matter brought by a person without actual capacity to bring such a suit.

In the instant case, Kato James Kaberu commenced this suit on the basis of a nullity which this court cannot condone. That being the case, he did not have the locus to commence this suit before this court. It therefore means that every averment contained in the Complaint in the main suit is a nullity which this court cannot entertain. As such, I shall not delve into the second and third

preliminary points of law as they are inconsequential since the first point of law has led to the determination that Kato James Kaberu does not have a cause of action against the Defendants in Civil Suit No. 090 of 2023.

I will now move on to determine the fourth point of law, which deals with the averment by the Applicant that the claim by the Respondents is time-barred.

Before I handle this point of law, I will provide a factual background concerning the case as whole based on the Complaint in the main suit.

The suit land comprised in formerly Bulemezi Block 806 Plots 1 & 2 at Butalangu was allegedly registered in the names of late Semu Kiyangi who later distributed it to his children (Kopuliyano Kiyangi and Sserunkuma) as per his Will dated the 14th December 1955. After the death of Semu Kiyangi, his children (Kopuliyano Kiyangi and Sserunkuma) allegedly took possession of the land that he had left to them. The two brothers have since died, and the Respondents are their administrators who wish to recover the suit land.

Counsel for the Applicant has submitted that the main suit is time-barred because the Plaintiff's claimed interest in the suit land was long extinguished by several subsequent transactions in the land preceding the 5th and 11th Defendants' acquisition.

The law on limitation for recovery of registered land is set out under **Section 5 of the Limitation Act** which states that;

"No action shall be brought by any person to recover any land after the expiration of twelve years from the date on which the right of action accrued to him or her or if it first accrued to some person through whom he or she claims to that person."

Also see Nyombayobo William Versus Bundibugyo District Local Government Civil Suit No. 008 of 2020.

In determining whether an action for recovery of land is time-barred, it is important to identify the date upon which the computation of the limitation period is deemed to commence *(See Kiwanuka Fredrick Kakumutwe Versus Kibirige Edward CACA No. 272 of 2017)*. The computation of time in such cases happens to be from the point at which the person seeking recovery was dispossessed of the land. This is the position of the law as stated in **Section 6 (1) of the Limitation Act**.

"Where the person bringing an action to recover land, or some person through whom he or she claims, has been in possession of the land, and has while entitled to it been dispossessed or discontinued his or her possession, the right of action shall be deemed to have accrued on the date of the dispossession or discontinuance."

In the instant case, the Applicant stated in paragraph 7 (v) of the Affidavit in support of this Application that the Plaintiffs/Respondents' claimed interest in land formerly comprised in Bulemezi Block 806 Plots 1 and 2 was long extinguished by several transactions in the land which preceded the Applicant's acquisition. That this interest was extinguished as far back as 1977 when the Applicant's predecessor in title, Yoweri Sebunya, was registered as proprietor on the suit land on 9 th of December 1977. It should be noted that this averment was not denied by the Respondents in their Affidavit in Reply. As a result, it shall be deemed that this averment was admitted by the Respondents and shall not need to be proved.

It is settled law that a fact not specifically denied by a party to a suit shall be deemed admitted by that party and a fact deemed to be admitted by any rule of pleading need not be proved unless the court otherwise deems at its discretion that it should. **See Section 57 of the Evidence Act; Roko Construction (R) Limited V Enson Global Limited and Another Civil Suit No. 675 of 2016; Nelson Kawalya V Sebanakita Hamis Miscellaneous Application No. 1534 of 2020.**

That being the case, the cause of action for recovery accrued in 1977 when Yoweri Sebunya got registered as the proprietor of the suit land. At this point, Kopuliyano Kiyangi and Sserunkuma had the opportunity to challenge the said acquisition of the land by Yoweri Sebunya before the lapse of twelve years in 1989. Shockingly, no one from the family of the Kopuliyano or Sserunkuma challenged this acquisition. It has taken Kopuliyano, Sserunkuma and their legal representatives over 46 years to commence a suit for recovery of land which allegedly belonged to them. I found this to be very strange.

I did note that in paragraph 8 of the Affidavit in Reply, the Respondents stated that their claim was not barred by the law of limitation since it pleads fraud,

which is an exemption to the general rule. It should be noted that in the case of any action based on fraud on the part of the Defendant or his or her agent or of any person through whom he or she claims, the period of limitation shall not begin to run until such a time when the Plaintiff has discovered the fraud, or could with reasonable diligence have discovered it. **See Section 25 of the Limitation Act.** Having perused the Complaint, I am convinced that the Respondents/Plaintiffs did not state when they discovered fraud committed by the Defendant in respect of the suit land. Where the Plaintiff does not plead the time of discovery of the alleged fraud, he or she is deemed to have been aware of the alleged fraud from the time it commenced. As such, I am constrained to rely on the defence being raised by the Plaintiffs.

In any case, **Order 7 Rule 6 of the Civil Procedure Rules** requires that where a suit is being instituted after the expiration of the limitation period within which it is supposed to be brought, the Complaint shall indicate the grounds upon which exemption from that law is claimed. **See also Vincent Opio Versus The Attorney General [1990-1991] KARL 71.** In the instant case, the Complaint does not plead these said grounds upon which the Plaintiffs should be exempted from Section 5(1) of the Limitation Act.

For the foregoing reasons, I find that the Respondents/Plaintiffs Civil Suit No. 90 of 2023 is barred by the law of limitation and cannot be entertained by this court.

Issue 2: What are the remedies available to the parties?

Having found that this suit is barred by the statute of limitations and that Kato James Kaberu did not have locus to commence Civil Suit No. 90 of 2023, I am left with no option but to dismiss Civil Suit No. 90 of 2023. The Applicant is awarded costs in both this Application and in the main suit.

I so order.

FARIDAH SHAMILAH BUKIRWA NTAMBI

AG. JUDGE

Delivered on ECCMIS this 29 th day of May 2025.

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