

UGANDA / JUDGMENT

Ddamulira v Statewide Insurance Company Limited and Another (Miscellaneous Application 853 of 2025) [2025] UGHCLD 141 (17 July 2025)

[2025] UGHCLD 141

COURT

HC: Land Division (Uganda)

BEFORE

Kaahwa, J

CASE / FILE NUMBER

Miscellaneous Application 853 of 2025

Source: ulii.org · Research copy typeset by Esheria. Not court-issued or certified.

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

LAND DIVISION

MISCELLANEOUS APPLICATION NO.853 OF 2025

ARISING FROM MISCELLANEOUS APPLICATION NO.709 OF 2025

ARISING FROM CIVIL SUIT NO.607 OF 2020

DDAMULIRA ABDUL::::::::::::::::::::::::::::

VERSUS

STATEWIDE INSURANCE COMPANY LIMITED

KAMOGA MUHAMMAD::::::::::::::::::::::::::::

BEFORE LADY JUSTICE CHRISTINE KAAHWA**RULING.****Introduction.**

$\mathcal{L}^{\mathcal{A}}(\mathcal{S})$

This is an application brought by way of Notice of Motion under Sections 98 of the Civil Procedure Act, Cap 282, section 33 of the Judicature Act, Cap 16 and Order 43 Rule 4 and Order 52 Rules 1 and 2 (d) the Civil Procedure Rules for orders that;

- a. An interim order of stay of execution doth issue against the Respondents staying the judgment and the decree obtained in the said suit until the final disposal of the Applicant's main Application for stay of execution of the said judgment.
- b. That the costs of this Application be provided for.

\$1510712025\$

The Applicant supports this application through an affidavit deposed by him briefly states that;

- 1. That he was the unsuccessful party in Civil Suit No.607 of 2020 Ddamulira Abdul Versus Statewide Insurance Limited and Kamoga Muhammad.
- 2. Being dissatisfied with the decree issued on the 20th November 2024 and orders therein lodged a Notice of Appeal in this Honourable Court.
- 3. The Applicant has since filed Civil Appeal No.114 of 2025 in the Court of Appeal which is still pending hearing.
- 4. That the Applicant's Appeal is meritorious and stands high chance of success.
- 5. There is an eminent threat of execution of the decree which would render the Applicant's Appeal nugatory if the Application is not granted.
- 6. He will suffer substantial loss or irreparable damage if no order of stay of execution is granted pending the outcome of the Appeal.
- 7. That it is fair and equitable that an order for stay of execution is granted pending the hearing and disposal of the Applicant's Appeal

In his supporting affidavit the Applicant lays out further grounds of the application as follows;

That the Applicant received a judgment on the 17th day of September, 2024 at the chambers of the trial Judge, in Civil Suit No.607 of 2020 Ddamulira Abdul Versus Statewide Insurance Limited and Kamoga Muhammad and he was the unsuccessful party. On the 29th day of November, he received an alert notifying him about the removal of a caveat which had lodged on the suit land. He subsequently lodged another caveat on the 11th day of December, 2024 to protect his interest in the land though the same has

been removed.

15/107/2015

That upon receipt of the High Court record of proceedings, the Applicant filed Civil Appeal No.114 of 2025 at the Court of Appeal in Kampala which appeal is pending hearing which meritorious. That when the Applicant conducted a search in January, 2025, he discovered that the \$2^{nd}\$ Respondent had already transferred the suit land into his names from the names of the \$1^{st}\$ Respondent.

The 2nd Respondent has served the Applicant with Miscellaneous Cause No. 20 of 2025 Kamoga Muhammad Vs Ddamulira Abdul and Commissioner Land Registration which is intended to remove the Caveat lodged on 11th December, 2024.

In addition he has been served with an Application for taxation of bill of costs No.0008 of 2025 by the Respondent and that the \$2^{nd}\$ Respondent has the intention of disposing off the suit land which will render the Appeal nugatory.

He will suffer irreparable loss if the stay of execution is not granted and the Application has been brought without undue delay and that it is in the interest of justice that the Application is granted.

Reply by the \$2^{nd}\$ Respondent.

Kamoga made a disposition on the 2nd May 2025 and opposed the grant of the application and affirmed that;

The Applicant's caveat was removed pursuant to a decree of the court; that the act of placing another caveat on the land after the court had directed its removal is tantamount to contempt; that the suit property has already been transferred to the Respondent and thus the status quo of the land had changed.

In addition he affirmed that the application was filed belatedly and prayed that it be dismissed by the court.

Representation and hearing.

15/107/2025

The Applicant was represented by M/S Lutaakome & Co. Advocates while the 2nd Respondent is represented by KOB Advocates and Solicitors. The 1st Respondent did not file a reply.

Parties were given directives to file written submission and the Applicant complied. The same will be considered while determining this Application.

Issue.

Whether the application discloses sufficient grounds for grant of an interim stay of execution.

Applicant's Submissions.

The Applicant relied on the case of China Hwan International Cooperation Group Company Limited vs Justice Kyabatwaa Civil Appeal No.030 of 2019 and quoted the extract of Justice Arach Amoko who mentioned that while handling application for stay of execution, in cases of urgency, the court is empowered to issue an interim order which acts as a stop gap measure to ensure that the substantive application is not rendered nugatory. He further submitted that the conditions to be fulfilled while dealing with an application for interim stay were set out in the case of Zubeda Mohammad and Anor Vs Lailah Kaka Wallia and Anor and includes,

- 1. There must be on record a competent notice of appeal.
- 2. There must be a substantive application.
- 3. There must exist a threat of execution.

That applying the above principle to the instant, the Applicant lodged a notice of appeal to this Court on the 20th day of September, 2024 as can be seen under paragraph 6 of the Applicant's affidavit in suit. On the issue of existence of a substantive application, the Applicant contends that he filed Miscellaneous Application No.709 of 2025 for stay of execution of the afore mentioned

\$51071\$ ans

judgment and decree which is pending hearing before this Court and on the third ground of existence of serious threat to execution, the Applicant avers that Respondent served him with Miscellaneous Cause No.22 of 2025 intended to remove the caveat which he filed and he has also been served with a taxed bill of costs.

He further contended that the Applicant's averments under paragraphs 6,7, 8, 9 and 10 of his affidavit in support and the annexures thereto are enough evidence to satisfy the grant of this application.

\$2nd\$ Applicants submissions.

Counsel opposed the application and contended that the Applicant had not fulfilled the conditions for the grant of the application as there was no substantive application, the Notice of Appeal was incompetent and that there was no serious threat of execution. He relied on various cases which are have read and appreciated.

The 1st Respondent did not file an affidavit of reply.

Resolution of the issue.

I have carefully perused the pleadings and the written submissions of the parties. I already noted that the 1st Respondent never entered appearance and neither did they file an affidavit in reply.

The Supreme Court in the case of Patrick Kaumba v Ismail Dabule SCCA No. 3 of 2018, set out the conditions to be considered while dealing with an interim order for stay of execution: -

- 1. There must be on record a competent notice of appeal.
- 2. There must be a substantive application.
- 3. There must exist a threat of execution.

\$1710712025\$

It is also trite that an interim order should not be granted as a matter of course. However, the discretion to grant or deny an interim order for stay must be exercised judiciously. In the case of Hwang Sung Industries Ltd v Tajdin Hussein and others SCCA No. 19 of 2008 G. M Okello JSC, noted as follows;

"For an application for an interim order of stay to succeed, it imperative to show that a substantive Application is pending and that there is a serious threat of execution before the hearing of the pending substantive application. It is not necessary to pre-empt consideration of matters necessary in deciding whether *substantive application for stay will succeed".*

Although, an interim order is a first aid intervention pending a substantive intervention, the above conditions have to be proved before such a grant can be made.

Notice of Appeal.

In the instant case, the Applicant through his affidavit evidence in paragraphs 6, 9 and 10 contends that he has filed Civil Appeal No.114 of 2025 pending hearing before the Court of Appeal and that there is a serious and imminent threat of execution since he has been served with an Application for taxation of bill of costs and further that the Respondent is also seeking the removal of a caveat which he lodged after the determination of the Civil Suit No.607 of 2020 against him.

I observe that there is a Notice of Appeal in respect of Civil Suit No.607 of 2020 which was lodged by the Applicant on 23rd September, 2024. This condition is proved.

Threat of execution.

The word "execution" stands derived from the Latin word "ex sequi" which means to follow out, follow to the end or perform. "Execution" signifies in law

15/107/2025

the obtaining of actual possession of anything acquired by judgement of law. Therefore execution signifies the last performance of an act.

The Applicant contends that the suit land is under threat of execution and therefore the appeal maybe rendered nugatory. The Applicant must demonstrate that there is a threat of execution. in this case it is a fact that there is decree ordering that the caveat of the Applicant is removed. This caveat was removed and the land was transferred in the names of the nd Respondent. This fact is admitted by the nd Respondent.

In addition a Taxation application was filed and served vide Taxation Application of 0008 of 2025. The Record of the court shows that the application was given a hearing date of th April 2025.

I find that the indeed the execution was commenced by removal of a caveat and the taxation application is an indication that the costs of the case are being concretized. I would conclude that the execution process has begun in earnest. The second condition is satisfied.

Substantive application.

Whereas the Applicant did not explicitly state that he had applied for a substantive stay of execution, I observe that this application arises from Misc. Application 709 of 2025 which is the main application. I also observed that in error this application had not been placed in the same folder with the main case file. The two applications were filed at the same time. I find that the rd condition has also been satisfied.

Having found that the Applicant has complied with all the conditions for grant of an order for interim Stay of execution, I have no reasons whatsoever to deny the same. Since this application each party shall bear their own costs.

Dated at Kampala this 17th day of July 2025.

15/10712025

7

.....

Christine Kaahwa

JUDGE

$\mathcal{L}^{\mathcal{A}}$

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://ulii.org/akn/ug/judgment/ughcld/2025/141/eng@2025-07-17>

CASE PAGE <https://chat.esheria.ai/case-law/uganda/ddamulira-v-statewide-insurance-company-limited-and-another-miscellaneous-application-853-of-2025-2025-ughcld-141-17-july-2025-unknown-topic-unknown-c--6a3ea4da3b1caa91297e691a>

Prepared on 12 October 2026 · Esheria