

UGANDA / JUDGMENT

Luwedde Victoria and Others v Nassiwa Deborah (Miscellaneous Application No. 459 of 2025) [2025] UGHCFD 58 (14 July 2025)

[2025] UGHCFD 58

COURT

HC: Family Division (Uganda)

BEFORE

Nagawa, J

CASE / FILE NUMBER

Miscellaneous Application No. 459 of 2025

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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA [FAMILY DIVISION]
MISCELLANEOUS APPLICATION NO. 0459 OF 2025

(ARISING FROM CIVIL SUIT NO. 107 OF 2023)

1. LUWEDDE VICTORIA 2. NANTALE DIANA RUTH 3. ZALWANGO
ESTHER ::::::::::::::::::::::::::::::::::: APPLICANTS VERSUS

NASSIWA DEBORAH ::::::::::::::::::::::::::::::::::: RESPONDENT

RULING BEFORE: HON. LADY JUSTICE CELIA NAGAWA

1.0 Introduction.

- 1.1 This Ruling relates to a Notice of Motion brought by Luwedde Victoria, Nantale Diana Ruth and Esther Zalwango against Nassiwa Deborah. The Application was brought under **Section 98 of the Civil Procedure Act, Cap. 282, Section 37 of the Judicature Act Cap 16, Order 1 Rules 10 (2) and 13, and Order 52 Rules 1, and 3 of the Civil Procedure Rules SI 71-1** seeking the following orders;
- 1. The Applicants be joined as Defendants in Civil Suit No. 107 of 2023 and all applications arising therefrom.
- 2. The cost of this Application be in the cause.

- 1.2 The Application was supported by the Affidavit of Luwedde Victoria, the 1st Applicant herein, containing the grounds on which it is based. They were briefly stated as follows;

- 1. That the Applicants are biological children and beneficiaries of the Estate of the late Kateregga Christopher Damba.
- 2. That the Applicants are necessary and or proper parties in Civil Suit No. 107 of 2023.
- 3. That the Applicants' presence in Civil Suit No. 107 of 2023 is necessary for effectual and complete settlement of all questions involved in the suit.
- 4. That the orders which the Plaintiff seeks in Civil Suit No. 107 of 2023 would legally and directly affect the individual legal interests of the Applicants.
- 5. That the estate of the late Kateregga Christopher Damba is yet to be distributed amongst the beneficiaries.
- 6. The Applicants have a legal interest in the estate of the late Kateregga Christopher Damba, the subject matter of Civil Suit No. 107 of 2023.
- 7. Only the Applicants can effectively safeguard their interest in the estate of the late Kateregga Christopher Damba.
- 8. This Application is intended to avoid multiplicity of suits concerning the estate of the late Kateregga Christopher Damba.
- 9. It is just and equitable to bring on record all persons who are parties to the dispute relating to the subject matter in Civil Suit No. 107 of 2023 so that the dispute may be determined in their presence.

1.3 Counsel Livingstone Ojaku of M/S Alaka & Company Advocates, represented the Applicants while Counsel Mohammed Matovu represented the Respondents.

2.0 Issue to be determined by the Court.

Whether there is sufficient cause to warrant the grant of this Application?

3.0 Determination of the Application.

- 3.1 The law on joinder of parties is well settled. When a suit has been filed, the trial court becomes **dominus litis** and assumes the duty to ensure proceedings align with justice by joining all persons who may be entitled to or claim an interest in the subject matter. As held in *N. U. R. T. W v R. T. E. A. N (2012) 10 NWLR (pt 1307) p. 170*, any judgment given against a necessary party behind its back will be to no avail.

- 3.2 The law recognizes different categories of parties. In **Chief of Army Staff v Lawal (2012) 10 NWLR p 62**, the court distinguished between proper parties, desirable parties (those who have an interest in a suit or may be affected by the reason thereof), and necessary parties (those whose presence is required for proceedings to be fairly and effectively dealt with).
- 3.3 **Order 1 Rule 10(2) of the Civil Procedure Rules S. I 71-1** provides that the court may order that any person who ought

to have been joined, whose presence may be necessary to effectually and completely adjudicate upon all questions involved in the suit, be added. In the present case, the following considerations are paramount:

- 3.4 First, the Applicants are biological children and beneficiaries of the estate of the late Kateregga Christopher Damba. This establishes their direct interest in the estate and any proceedings affecting its administration or distribution. For joinder to be necessary, it must be shown that the orders sought would legally affect the interest of that person or that it is desirable to avoid multiplicity of suits (**Departed Asians Property Custodian Board vs. Jaffer brothers Ltd [1999] 1. E. A 55**).
- 3.5 Under the **Judicature Act, Cap. 16**, the court has powers to grant remedies so that all matters in controversy are completely determined and multiplicity of proceedings avoided.
- 3.6 Second, **Civil Suit No. 107 of 2023** concerns the estate of the late Kateregga Christopher Damba, which remains undistributed among the beneficiaries. The Applicants, being biological children and beneficiaries of the deceased, have a direct and substantial interest in any proceedings that may affect the estate's distribution or administration.
- 3.7 Third, the Applicants' exclusion from the proceedings would potentially result in orders being made that affect their interests without their participation, which would be

contrary to the principles of natural justice and procedural fairness. The fundamental principle of **audi alteram partem** (hear the other side) requires that parties whose interests may be affected by judicial proceedings be afforded an opportunity to be heard.

- 3.8 Fourth, their joinder would enable this court to effectually and completely determine all issues relating to the estate, thereby avoiding potential multiplicity of proceedings. The Applicants have contended that they are the only parties who can effectively safeguard their interests in the estate.
- 3.9 Fifth, the nature of estate disputes often involves multiple beneficiaries with competing or overlapping interests. The complete adjudication of such matters requires the presence of all interested parties to ensure that any judgment or order made by the court is binding and enforceable against all concerned parties.

- 3.10 The discretion to join parties must be exercised judiciously based on sound principles. In this case, the balance of convenience and the interests of justice favour the joinder of the Applicants. This discretionary power may be exercised at any stage, as established in **Kololo Curing Co. Ltd. vs West Mengo Co-op Union Ltd. [1981] HCB 60. The purpose of joinder, per Samson Sempasa vs P. K. Sengendo H. C. M. A No.577 of 2013**, is to enable court to effectually and completely deal with the matter and avoid multiplicity of proceedings.

- 3.11 Having considered the Application, the supporting affidavit, and the submissions, I am satisfied that the Applicants have made out a case for joinder. The Applicants have demonstrated that they are necessary parties whose presence is required for the effectual and complete adjudication of Civil Suit No. 107 of 2023. Their status as biological children and beneficiaries of the deceased's estate, coupled with the fact that the estate remains undistributed, clearly establishes their direct interest in the proceedings.
- 3.12 The Application succeeds, and I hereby make the following orders:
- a) The Applicants are hereby joined as Defendants in Civil Suit No. 107 of 2023 and all applications arising therefrom.
- b) The pleadings in Civil Suit No. 107 of 2023 shall be amended to include the Applicants as Defendants.
- c) Costs of this Application shall be in the cause.
- d) The Applicants shall file their Written Statement of Defense within 15 days from the date of this Ruling.
- e) The matter shall be fixed for hearing on a date to be communicated by the Court.

Dated, Signed and delivered electronically this 14th day of July, 2025.

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