

UGANDA / JUDGMENT

Magara v Kibira (Miscellaneous Application 2345 of 2024) [2025] UGHCLD 37 (24 February 2025)

[2025] UGHCLD 37

COURT

HC: Land Division (Uganda)

BEFORE

Naluzze Aisha Batala, J

CASE / FILE NUMBER

Miscellaneous Application 2345 of 2024

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)

MISC. APPLICATION NO. 2345 OF 2024

(Arising from M. A NO.0740 OF 2024 and HCCS No. 63 of
2019)

MAGALA GEORGE WILLIAM :::::::::::::::::::: APPLICANT

VERSUS

GEOFFREY KIBIRA :::::::::::::::::::: RESPONDENT

BEFORE; HON. LADY JUSTICE NALUZZE AISHA BATALA

RULING

Introduction;

- 1. This Application is by Notice of Motion under Section 37 of the Judicature Act, Section 82 and 98 of the Civil Procedure Act, Section 221 of the Succession Act, Order 46 rules 1(1)(b) and 8 of the Civil Procedure Rules for orders that;
- i) The Court reviews its order issued on 14/06/24 wherein Mr. Sebunya Frank Kibiringe was appointed as an administrator pendete lite for the Late Nampewo

Mariam as there are errors apparent on the face of the record.

- ii) New and important matter of evidence has since been discovered which could not be produced when the order was made.
- iii) The Land Division of the High Court does not have jurisdiction to appoint an Administrator pendent lite. iv) Costs of the Application be provided for.

Applicant's evidence;

- 2. The grounds of the application are contained in the application and supporting affidavit of the Applicant which briefly are;

- i) That Counsel for the Respondent informed court that she was going to apply and make the Applicant and his mother Ms Veronica Nannozi the Administrators Pendente lite in the place of the deceased Mariam Nampewo.
- ii) That the Applicant's counsel objected that the Respondent had no cause against the Applicant and his mother but was over ruled.
- iii) That the Learned Judge ordered the Respondent to make the Application.
- iv) That on the 14/06/2024, the Applicant's Counsel missed court but the Order which was extracted in MA 0740 of 2024 on 17/06/2024 served on him on 28/08/2024 was silent on the Applicant and Ms Nannozi and Mr. Senabulya the respondent's witness was appointed to be the administrator pendente lite in the place of the deceased.
- v) That the Applicant believes that Mr. Senabulya is not a suitable person to be the administrator pendente lite as his personal interests are completely averse to those of the Deceased a fact which was not known to court on 14/06/2024 at the time of granting MA 0740 of 2024.
- vi) That Mr. Senabulya who was ordered to file an amended defence reflecting the true status of the Estate decided to completely abandon the Deceased's case as presented in her Written Statement of Defence.
- vii) That the Administrator pendente lite is a substitution of a deceased party which principally involves the taking

over of the case of the deceased and defending it in exactly the same way as was filed during the deceased's lifetime.

- viii) That the deceased had a personal lawyer who had filed her defence in HCCS NO.063 of 2019.
- ix) That the Deceased's said lawyer was not served with MA No.063 of 2024 nor were his views sought before Mr. Senabulya was appointed.
- x) That within Kampala there is a Family Division and it is only the Family Division vested with jurisdiction to appoint administrators of estates in whatever capacity.
- xi) That in all matters where there are more than one Respondent, the Court is under an obligation to pronounce itself on the case of each Respondent separately which the Court did not do on 14/06/2024 contrary to the 1st Respondent's prayer.
- xii) That the order to Mr. Senabulya to file an amended defence reflecting the true status of the Estate was an error as the amendment in those circumstances is only

supposed to reflect the substitution of the deceased' name with that of the Administrator pendente lite.

xiii) That the Respondents further connived to file an amended Joint Scheduling Memorandum without the leave of court to accommodate Mr. Sebunya's case while excluding that of the deceased.

Respondent's evidence;

- *3.* The Grounds of Opposition of this Application are contained in the affidavit deposed by Geoffrey Kibira in which he states that;
- i) That the Respondent raises a Preliminary objection that the Applicant has brought this Application against the wrong party.
- ii) That no order has ever been made against the Respondent to be appointed an administrator ad litem neither to amend the pleadings. The order was made against Sebunya Frank Kibirige thus the Respondent has nothing to do with it.
- iii) That on the 7th day of March 2024 when the Plaintiff and his counsel together with Counsel for the 2nd and

3rd Respondents appeared before court, counsel for the Plaintiff applied for stay of the proceedings in order to apply to have an administrator ad litem appointed.

- iv) That counsel for the Defendants opposed the Application and court gave a ruling on 12th March, 2024 where the Respondent was granted the order to file an application to appoint an administrator ad litem.
- v) That when the application was made, it was served on the advocates of the deceased, 1st Defendant, advocates of 2nd and 3rd Defendants and also advocates of the 3rd Respondent.
- vi) That on the 14th day of June, 2024 when the parties appeared in court, counsel for the Applicant/ 2nd and 3rd Defendants did not appear in Court. That counsel for the 3rd Respondent who appeared in Court together with his counsel for him to be appointed administrator ad litem.
- vii) That the 3rd Respondent through his counsel agreed to be appointed the administrator ad litem so it was consented to.
- viii) That this backed by the 3rd Respondent's submissions that the family had consented that he be

appointed the administrator of the estate of the late Nampewo Mariam.

- ix) That the Advocates of the deceased were served with the Application but failed to file any reply or appear in court.
- x) That the High court in whatever jurisdiction it is in has the capacity to appoint an administrator ad litem so long as the matter is in that division.

Representation;

4. The applicant was represented by The Law Associated Advocates whereas the respondent was represented by Dr Diana Musoke of M/S Musoke & Co. Advocates. Parties proceeded by way of written submissions which I have considered in the determination of this application.

Issues for determination;

Whether the instant application raises grounds for review of the orders issued on the 14th of June 2024?

Resolution and determination of the issue;

- 5. Before I proceed any further with this application, I find it relevant to first deal with an objection raised by the Respondent in his affidavit in reply as to whether he is the proper person to respond to the application.
- 6. The Application wherein Mr Sebunya Frank Kibirige was appointed as Administrator ad Litem in M. A No.0740 of 2024 which was brought by the Respondent against Magala George William, Nannozi Veronica and Sebunya Frank Kibirige.
- 7. The Respondent in this application seems to object to this application on grounds that no order for appointment as administrator ad litem was ever made against him in other words the application is clearly brought against the wrong party.
- 8. It is true that Mr. Sebunya Frank Kibirige is the administrator ad litem not the respondent. The resultant order from MA No. 0740 of 2024 by law vested Mr Sebunya Frank Kibirige with the authority of an Administrator ad litem. How he conducted himself in that office was a question to be determined after.
- 9. However, at the time of this ruling, Mr Sebunya Frank Kibirige is the legally appointed Administrator ad litem until the determination of the suit for which he was appointed.
- 10. It thus follows that at this point one cannot seek to apply to review the order in which Sebunya Frank Kibirige was appointed as Administrator Ad Litem without adding him as a concerned party, in which case he is the proper person to answer the allegations raised in the application by the applicant. The applicant has failed to realize that Mr Sebunya Frank is already an Administrator ad Litem and should be added as a party to all subsequent proceedings concerning him in that capacity.
- 11. It is therefore my observation that Mr Sebunya Frank Kibirige ought to have been added as party to this application for he was in proper position to address the allegations raised in the application.

- 12. Secondly, I have also come to notice from the pleadings of the applicant that he is more interested in challenging the suitability of Mr Sebunya Frank Kibirige as the Administrator ad litem rather than the proper application of review as it is known at law.
- 13. The considerations of seeking for Review were stated in **Re- Nakivubo Chemists (U) Ltd (1979) HCB 12, where Justice Manyindo** as he was then, held that the three cases in which review of a judgement or orders is allowed are those of;
 - i) Discovery of new and important matters of evidence previously overlooked by excusable misfortune.
 - ii) Some mistake apparent on the face of record.
 - iii) For any other sufficient reasons, but the expression "sufficient" should be read as meaning sufficiently analogous to (a) and (b)
- 14. Of the above grounds, it is not clear or spelt out under which ground this Application is brought.
- 15. It is then my observation that the remedy for the Applicant is not to be found in review but rather apply to substitute the current Administrator ad Litem or appeal against the order.
- 16. For the foregoing reasons, the applicant erred in procedure and the application falls short of what is expected in an application for review.
- 17. The application is hereby dismissed and costs to be in the main cause.

I SO ORDER.

NALUZZE AISHA BATALA

Ag. JUDGE

24 th /02/2025

**Delivered Electronically via ECCMIS on the 24 th day of
February 2025.**

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/2025/37/eng@2025-02-24>

CASE PAGE <https://chat.esheria.ai/case-law/uganda/magara-v-kibira-miscellaneous-application-2345-of-2024-2025-ughcld-37-24-february-2025-unknown-topic-unknown-court-2025--6a3ea4dc3b1caa91297e99b8>

Prepared on 12 October 2026 · Esheria