

UGANDA / JUDGMENT

Muyinza Mukasa v Musisi Ssekyaya (H.C.Miscellaneous Application 665 of 2023) [2023] UGHCLD 121 (12 May 2023) [2023] UGHCLD 121

COURT

HC: Land Division (Uganda)

BEFORE

Wasswa, J

CASE / FILE NUMBER

H.C.Miscellaneous Application 665 of 2023

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THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT KAMPALA D
DIVISION Mtsc. APPLTCATTON N0.0665 0F 2023 (aB15,r UE_ FRQM CLVLLsU rI
Nq093rr q?qp)

EDITH MUYINZA MUKASA. APPLICANT

DONOZIO MUSISI SSEKYAYA RESPONDENT

BEFORE: HON. LADY JUSTICE P. BASAZA- WASSWA**RULING**

Representation

Mr. Ronald Bogezi with Eric Mukasa for the Applicant

Ms. Banadawa Sawuya for the Respondent

tll This is a Ruling in an application brought by Notice of Motion under Section 98 of The Civil
Procedure Actl, and Order 24 Rules 3 (1) & 12, and Order 6 Rule 19 of The Civil Procedure Rules2,
as amended (CPR). The Applicant; Ms. Mukasa seeks for

the following orders

- i) That she be appointed an administratol ad /item to represent the late Major General Eric
Mukasa for purposes of prosecuting the Head suit vide HCCS No.

934 of 2019

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- ii) That she be accordingly substituted as the plaintiff in the head suit, and that the plaintiff and/or pleadings be amended to that effect
- iii) That the costs of the application be provided for
- 12l The application is supported by the affidavit of Ms. Mukasa and the grounds set out therein are
 - i) That the Late Nzajor General Eric Mukasa instituted the head suit on the 28i0.2019 through the applicant (his sister) as his attorney
 - ii) That before the formal hearing of the suit commenced, the Plaintiff- Major General Eric Mukasa died on the 2.07.2020 and the progress of the suit has since stalled
 - iii) That none of the family members has been issued with Letters of Administration yet the main suit is strll pending and will most likely be dismissed for want of prosecution for failure to take the necessary steps to prosecute the same
- 13l The Respondent: Mr. Ssekyaya filed an affidavit in reply opposing the application, the main thrust of which is that the Applicant has not demonstrated that it is necessary to appoint her as the representative of the deceased

Analysis by Court:

14l Order 24 Rule 3 (1) of the CPR provides that where a sole plaintiff dies and the cause of action survives or continues, the court, on an application made for that IUc blJ.^.^,r^/\ I l'IC

purpose, shall cause the legal representatrve of the deceased plaintiff to be made a party and shall proceed with the suit

Section 222 of the Succession Act3 as Amended, permits the appointment of an administrator ad litem, limiled for the pu rpose of representing the deceased in that suit

tsl I have carefully considered all the arguments for and against this application, and I find that, since the applicant was the lawful attorney of the late Major General Eric Mukasa in the head suit while he was alive, and since she is also one of the four (4) nominees by members of their family to administer his estate, she is a fit and proper person to be appointed as an administrator; ad / item to represent his estate for purposes of prosecuting the Head suit.

Decision of Court

- t6l In the result, this application is allowed in the following terms;

- a) The Applicant: Ms. Edith Muyinza Mukasa is hereby appointed an Administrator ad litem, limited for the purpose of representing the late Major General Eric Mukasa in the Head suit: HCCS. NO. 934 of 2019, and such other causes and suits which may have, or may be, commenced between the parties, or any other parties, touching the matters in issue in the Head suit
- b) The Applicant is accordingly made a party to the Head suit and the name of the deceased is substituted with her name

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- c) The Pleadings in the suit shall be amended to that effect, within fifteen (15) days from the date of this Ruling.
- d) The Head suit shall proceed and is fixed for Hearnng / Scheduling on June 20, 202 3 at 10am
- e) The Costs of the application shall abide the outcome of the Head suit

I so order,

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P. BASAZA. WASSWA JUDGE

May 12,2023

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