

UGANDA / JUDGMENT

Najjuko v Rita Lubowa (Miscellaneous Application 1072 of 2022) [2023] UGHCLD 193 (10 July 2023)

[2023] UGHCLD 193

COURT

HC: Land Division (Uganda)

BEFORE

Basaza, J

CASE / FILE NUMBER

Miscellaneous Application 1072 of 2022

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

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGA NDAAT KAMPALA

LAND DIVISIO

**MISCETLEANEOUS APPLICATION NO. 1072 OF 2022 (ARTSTNG FROM CrVtL SUrr
N0.0803 OF 2018)**

KHAWA NAJJUKO APPLICANT

V

RITA LUBOWA LWANGA

RESPONDENT

(Administratrix of the estate of the late Xavier Lwanga Francis)

BEFORE: - HON. IADY JUSTICE P. BASAZA- WASSWA

RULING

Representation:

Mr. Kikomeko Swaib for the Applicant

M r. Semanda Ben Tziwa for the Respondent

Introduction:

This ruling is in respect of a miscellaneous application brought by Chamber Summons under Section 33 of the Judicature Act¹, Section 98 of the Civil Procedure Act² and Order 6 Rule 19 of The Civil Procedure Rules³ for orders that; a) Leave be granted to the applicant to amend the plaint in the Head Suit C. S N0.

803 of 2018.

It is hereby ordered that;

- ¹³Cap 13
- ⁷¹Cap 71
- ¹⁷s.17-1

Page 1 of 4

- b) Leave be granted to the applicant to incorporate new facts and reliefs in the plaint in the Head Suit.
- c) Cost for this application be provided for.
- [2] The application is supported by the affidavit of Ms. Najjuko (the Applicant) and the grounds set out therein are;
 - i) That at the time of filing the Head suit several relevant facts were left out.
 - ii) That important and new facts have been discovered by the applicant that are relevant in determining the Head Suit.
 - iii) That there are several reliefs which were left out at the time of filing the Head Suit.
 - iv) That the amendment of the Head suit will not prejudice the interests of the Respondent and shall avoid a multiplicity of suits.
- That the Respondent- Ms. Lwanga filed an affidavit in reply opposing the application. She stated that the application is incompetent, an abuse of court process and brought in bad faith, and that, if granted an injustice shall be occasioned to the Respondent.

Conclusion

[4] This Court issued a schedule for filing written submissions which has not been adhered to. whereas Learned Counsel for the applicant filed written submissions, Learned Counsel for the Respondent did not file a reply to the written submissions of the Applicant.

on the whole, I have duly considered the arguments for and against this application. For brevity, I will not reproduce the arguments here, I will only refer to them where necessary

It is hereby ordered that Page 2 of 4

Anal is bv th is ourt

[5] Order 6 Rule 19 of the Civil Procedure Rules provides that;

„The court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just' and all such amendments shall be made, as may be necessary for 'the purpose of determining the real questions in controversy between the parties' "

[6] The law on amendment of pleadings was elucidated in *Mulwooza & Brothers Vs N. Shah & Co. Ltd* citing *Eastern Bakery v. Castelinos* that;

„amendments are allowed by courts so that the real question in controversy between the parties is determined and justice is administered without undue regard to technicalities in accordance with Article 126(2) (e) of the Constitution' Therefore, if plaintiff applies for leave to amend his pleadings, court should in the interest of promoting justice, freely allow him to do so unless this would cause an injustice to the opposite party which cannot be compensated for by an award of costs' or unless the amendment would introduce a distinct cause of action in place of the original cause.';

[7] Having duly considered the grounds of this application and the proposed amendments, I find that the proposed amendments shall enable court to determine the real questions in controversy between the parties'

I also find that the Respondent has failed to show that the proposed amendments shall be of Prejudice to her.

ikg,hl^J rq?"

4(Civil Appeal 26 of 2010) [2011] UGSC 112

t 1958 EA P ⁴⁶¹

Page 3 of 1

Cou

[B] In the result, the application is allowed, in the following terms;

- a) Leave is granted to the Applicant to amend the plaint in the Head Suit C. S NO. 803 of 2018.
- b) The proposed amendment shall be made within Ten (10) days from the date of this Ruling.
- c) Costs of this application shall abide the outcome of the Head Suit.

Is order,

W<^t. Jil *^r-,1 \'?

P. BASAZA - WASSWA

JUDGE

July 10, 2023

Ruling delivered electronically on the Judiciary ECCMIS system and by email to the parties.

Page 4 of 4

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/2023/193/eng@2023-07-10>

CASE PAGE <https://chat.esheria.ai/case-law/uganda/najjuko-v-rita-lubowa-miscellaneous-application-1072-of-2022-2023-ughcld-193-10-july-2023-unknown-topic-unknown-court-2023>

Prepared on 14 October 2026 · Esheria