

UGANDA / JUDGMENT

Sukhveer v Harvinder

(Originating Summons 22 of 2019)

[2022] UGHCFD 37 (14 June 2022)

[2022] UGHCFD 37

COURT

HC: Family Division (Uganda)

BEFORE

Komuhangi, J

CASE / FILE NUMBER

Originating Summons 22 of 2019

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 (FAMILY DIVISION) ORIGINATING SUMMONS NO. 022 OF 2019

**SUKHVEER KAUR JHASS APPLICANT (Administrator of
the Estate of the late TARLOCHAN SINGH JHASS)**

AND

HARVINDER SINGH JHASS..... RESPONDENT

BEFORE: HON. LADY JUSTICE ALICE KOMUHANGI KHAUKHA

RULING

Introduction

This ruling is in respect of an application brought by way of Originating Summons under Sections 33 & 38 of the Judicature Act, Cap. 13, Sections 64 (c) and 98 of the Civil Procedure Act, Cap. 71 and Order 37 Rules 1 of the Civil Procedure Rules S. I 71-1. The application seeks for determination of the following question/and or issue:

- 1. That an Order is effected for the respondent to vacate the property situate on Flat B2, Plot 98/104, Nakivubo Road, Kampala, Freehold land at NuniAnzu Parish, Adumi Sub-County, Arua District and Freehold Land at Odianyadri Village, Vurra County, Arua District, the court having decreed the applicant as the sole beneficiary of the estate of the late TARLOCHAN SINGH JHASS on the 14th day of November 2016;

- 2. The costs of this application.

Appearance and Representation

When the application came up for hearing, the applicant was represented by Counsel Wabwire Anthony of Kashilingi, Rugaba & Associates while the respondent was represented by Counsel Ogale of Alaka & Co. Advocates. Both the applicant and the respondent were present in Court.

The application

The application is supported by the affirmation of the applicant, a one Sukhveer Kaur Jhass. The respondent, Harvinder Singh Jhass filed an affidavit in reply to the application. Counsel for both the applicant filed submissions which have been considered in this ruling.

Facts

The facts as deduced from the pleadings are as follows:

Sukhveer Kaur Jhass (hereinafter referred to as **the applicant**) is the widow to the late Tarlochan Singh Jhass (hereinafter referred to as **the deceased**) who died intestate on 20th November 2011 leaving behind movable and immovable property. The applicant in her capacity as a widow applied for and was granted Letters of Administration for the deceased's estate. The respondent together with his late father, Piara Singh filed **Civil Suit No. 52 of 2012** (hereinafter referred to as **"the head suit"**) challenging the grant of the Letters of Administration. Judgment in the head suit was delivered on **14th November 2016** and the applicant was declared as the sole beneficiary of the estate of the deceased, among others but was ordered to file an inventory and account of the estate of the deceased.

On the 24th day of January 2017, the applicant filed an inventory (hereinafter referred to as **"the inventory"**) naming the respondent and the late Piara Singh as beneficiaries to the estate of the deceased and gave them property comprised in Flat B2, Plot 98/104 Nkivubo, Kampala; Freehold Land at NuniAnzu Parish, Adumi subcounty, Arua District and Freehold Land at Odianyadri Village, Vurra County, Arua District (herein after referred to as **"the property"**).

The applicant's claim is that the respondent should vacate the property because she learnt that the Court had entered judgment on the 14th day of November 2016 and declared her as the sole beneficiary of the deceased's estate.

It is against that background that the application was filed in this Honourable Court seeking an Order against the respondent to vacate the property and pay for the costs of the suit.

From the foregoing, I note that the question/issue to be determined by this Court is, *whether the inventory that was filed on 24th January 2017 is tenable and dealt with the estate of the deceased*.

Resolution

Counsel for the applicant in his written submissions contended that the applicant learnt that Court had entered judgment in her favour in the head suit, declaring her as the sole beneficiary to the estate of the deceased after she had filed the inventory on 24th January 2017. Counsel further states that the subsisting inventory in its present form shall have implications upon the applicant to wit: that the applicant stands to suffer colossal damages as her property is in the hands of a person who is not a beneficiary to the estate of the deceased and that it would be a direct contradiction of the judgment delivered in the head suit. Counsel therefore prayed that the Order is granted since the matter is a simple one. It asserts the judgment of the Court in the main suit which properly determined the rights of the applicant as the sole beneficiary of the estate of the deceased.

Counsel for the respondent in his written submissions contended that in the judgment delivered in the head suit by this Honourable Court, the applicant (then defendant) was ordered to file an inventory and account of the deceased's estate. That the applicant did so on 24th January 2017. Counsel further submitted that in the said inventory, the applicant freely, properly and justifiably distributed the deceased's estate and allocated the said property to the respondent and his late father, Piara Singh Jhass who are lawfully the dependent beneficiaries and blood relatives of the deceased that is, brother and father respectively. That the applicant already distributed and gave out voluntarily to them the estate property and she no longer owns the property given out. Counsel submitted that if the applicant filed a false inventory in this Honourable Court, she should be held liable and sent to prison for committing a criminal offence under section 94 of the Penal Code Act.

Counsel further submitted that the grant to the applicant has become useless since she has already separated with the estate of the deceased because of her current marriage to a one, Sarban Singh while still in the estate property. It was counsel's prayer that the application is dismissed with costs to the respondent because it lacks merit, is frivolous and vexatious.

Having considered the pleadings on Court's record and the submissions made by both Counsel, I find that the applicant filed an inventory following the Orders delivered in Civil Suit No. 52 of 2012. I have had the opportunity of reading through the judgment of the learned trial Judge in the head suit and I find that she had ordered that the applicant files an inventory and accounts to the deceased's estate. As such, I find the applicant's claim that she learnt that judgment had been delivered in the head suit after she had filed the inventory unbelievable and very untruthful. In fact, I find it an afterthought on the part of the applicant that she even filed this application. It was after she later realized the impact of the judgment in the head suit that the applicant filed this application. Had she known the effect of being declared a sole beneficiary of the deceased's estate earlier, maybe she would have never filed an inventory distributing the deceased's estate when she did. I find that the application was brought in bad faith too.

Be that as it may, from my reading of the record, I find that the applicant had been granted Letters of Administration by this Honourable Court on 17th February 2012. It is trite that an administrator is required to file an inventory of the deceased's estate after six (6) months but the applicant files an inventory on 24th January 2017 which is more than 4 years from the required time as per the law. The only clear and logic explanation about the applicant filing an inventory on the 24th day of January 2017 is that she had knowledge of the delivery of the judgment in the head suit on 14th November 2016 and she was simply complying with the Orders therein made by the trial judge.

Otherwise, it is unfathomable why the applicant would choose to file an inventory at the time she did if she was unaware of the judgment and Orders given in the head suit. I would have expected the applicant to wait for the outcome of the judgment in the main suit first, since she knew that there was a suit that was filed against her, before she could rush into filing an inventory of her deceased husband's estate.

In the premises, I am inclined to agree with counsel for the respondent that the applicant freely, voluntarily, properly and justifiably distributed the deceased's estate and allocated the said property to the respondent and his late father, Piara Singh Jhass as per the inventory filed on 24th January 2017. The said property has already been properly dealt with by the applicant and she is barred from claiming it back in the circumstances. I find no illegality (such as fraud, mistake, duress/coercion) that would warrant a reversion of the property in issue to the applicant.

Thus, the question to be determined I this application has been resolved in the negative and the following orders are made thereto:

- 1. that the application, Originating Summons No. 22 of 2019 is hereby **dismissed** as it lacks merit, is frivolous and vexatious and was brought in bad faith;
- 2. that the respondent is rightly in possession of property situate on Flat B2 Plot 98/104, Nakivubo road, Kampala; Freehold land at NuniAnzu Village, Adumi Sub-County County, Arua District and Freehold land at Odianyadri Village, Vurra County, Arua District, the said property having been properly distributed to him and his late father by the applicant in the inventory filed on 24th January 2017;
- 3. that the respondent shall enjoy quiet possession of the said property free from any interference from the applicant;
- 4. that the costs of this application shall be borne by the applicant.

I so order.

Dated at Kampala this 14th day of June 2022.

.....

Alice Komuhangi Khaukha

JUDGE. 14/06/2022

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/ughcfd/2022/37/eng@2022-06-14>

CASE PAGE <https://chat.esheria.ai/case-law/uganda/sukhveer-v-harvinder-originating-summons-22-of-2019-2022-ughcfd-37-14-june-2022-unknown-topic-unknown-court-2022>

Prepared on 13 October 2026 · Esheria