

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA  
HOLDEN AT GULU  
HCT – 02 – CV – MA – 0039 – 2007**

**PAUL MILLS EKWANG :::::::::::::::::::::::::::::::::::APPLICANT**

**VERSUS**

**LIRA DISTRICT LAND BOARD:::::::::::::::::::::::::::::::::RESPONDENT**

**BEFORE: HON. JUSTICE REMMY K. KASULE**

**RULING**

The applicant seeks leave to file an application for judicial review against the respondent.

The application is brought under Section 36 of the Judicature Act and Rules 2, 3, 4 and 5 of the Civil Procedure (Amendment) (Judicial Review) Rules 2003.

The subject matter of contention is land comprised in LRV 1951 Plot 9-13, Folio 14, Isaya Ogwanguzi Road Lira District, being approximately 1.302 hectares.

It is the assertion of applicant that he has since 12.03.91 been the lessee of the suit land for purpose of establishing a nursery school thereon. He was under the lease terms, to develop the same in two years, and then have the lease extended for 49 years.

Applicant contends that due to the civil strife in the area, he was not able to develop the land, managing only to construct a foundation for a building.

In the meantime applicant was renewing extension of his lease, except for 1998, when the land registry of Lira Municipality was being burglar proofed and was thus closed.

Later the Respondent, by virtue of the 1995 Constitution took over management of the suit land.

Respondent refused to renew applicant's lease, in spite of verbal assurances to the contrary, and instead the suit land is being leased to other individuals.

According to applicant, his interests in the suit land are being alienated without being given a hearing, thus contrary to the Rules of natural Justice.

The burden is on the applicant to avail to court facts that, on their own face, would entitle him to be granted leave: see **Kikonda Butema farms Ltd vs The Inspector General of Government: Court of Appeal (Uganda) Civil Appeal No. 35 of 2002**, unreported.

Court may, either independent of or in addition to the above stated consideration, look at the seriousness of the applicant's complaint. The more serious the complaint, the greater the necessity that leave be granted, so that court investigates and gives appropriate relief in the cause.

Where the complaint is some fanciful exercise with no serious issues involved court may not waste its valuable time and resources to investigate the matter. In such a case court may decline to grant leave: see **Kenya Court of Appeal Civil Appeal No. 04 of 2000: Major M. L. Musyona & 4 others vs The Chief of General staff: Armed Forces of Kenya & 2 others**, unreported.

Whether to grant or not to grant leave, boils down to court exercising its discretion judiciously, on the basis of the above considerations and overall facts of the cause.

In this application, the applicant complains that he is being deprived of his interest in a valuable piece of land, on which he had commenced some development, but for the armed conflict in the area. Though promised by several officers that his proprietary interests in the suit land would be restored to him, the respondent is instead alienating the same. The land is being given to other people. The applicant is not being heard in the cause, contrary to natural justice. Prima facie therefore, the applicant has shown to court, facts that entitle him to be granted leave.

The facts also show that the issues involved are serious and deserve investigation by court through determination of a substantive application of Judicial Review.

Accordingly leave is granted to applicant to file such application for prayers of certiorari, mandamus, injunction and damages, or any other relevant reliefs.

The application is to be filed within 14 days from the date of this order.

The costs of this application shall go to the successful party in the substantive application.

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Remmy K. Kasule

Ag. Judge

12<sup>th</sup> July, 2007