

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA  
HOLDEN AT MBALE**

**CIVIL REVISION NO. 0010-2012  
(Arising from Sironko Family Case No. 001/2010)**

**ZEBERA NAKUSI.....APPLICANT  
VERSUS  
STEPHEN GONGODYO.....RESPONDENT**

**BEFORE: THE HON. MR. JUSTICE STEPHEN MUSOTA**

**REVISION ORDER**

This matter was referred to me by the Magistrate Grade I Sironko through the Chief Magistrate Mbale for a possible revision order.

It is contended that a Magistrate Grade II Sironko entertained a land dispute as a family cause without jurisdiction.

When I perused the cause of action filed through a “chamber summons” the proceedings were instituted against **Stephen Gongodyo** for “vacant possession” of “family property”.

The matter was heard *ex parte* and judgment entered against the respondent and in favour of the complainant **Zebra Nakusi**, widow, who was allegedly left on the land by her late husband but was thrown out by the respondent her real son.

The Family and Children Court is established under The Children Act.

Under Part IV thereof, the Family and Children Court is created. S.13 (1) thereof provides that:

***“(1) there shall be a court to be known as the Family and Children Court in every district, and any other lower government unit designated by the Chief Justice by notice in the Gazette.”***

S.13 (2) provides that:

***“ A magistrate not below the grade of Magistrate Grade II shall be assigned to preside over the Family and Children Court.”***

S.14 provides for the jurisdiction of the Family and Children Court thus:-

***“(1) A family and Children Court shall have power to hear and determine.***

***(a) Criminal charges against a child subject to sections 93 and 94; and***

***(b) applications relating to child care and protection or any other jurisdiction conferred on it by this or any other written law.”***

Clearly land disputes do not fall under matters that can be handled by the Children court.

Therefore, the learned trial Magistrate Grade II had no jurisdiction to hear and determine a land dispute because it was referred to as “family land.” The trial was

therefore a nullity for lack of jurisdiction. The learned trial magistrate's judgment and ensuing orders are hereby quashed and set aside.

From what I gathered from the illegal record, a biological son of the plaintiff was the one throwing his mother out of the land in dispute. This was tantamount to taking the law into his own hands. The mother must continue staying on the land until the claimant **Stephen Gongodyo** files a land suit in a proper forum to establish his claim.

I make this directive in conformity with the principles of justice, equity and good conscience under S.14 (2) (c) of the Judicature Act.

I so order.

**Stephen Musota**

**JUDGE**

**26.4.2012**