

- (d) That I apply for Kenyan Judgment to be registered and enforced in the High Court of Uganda Holden at Mbale;
- (e) That it is in the interest of justice that this application be granted.
4. This application was opposed by **WEKESA PATRICK**, the Respondent and he averred as follows-
- (a) That I am aware of the parcel that was once registered jointly in the names of MATAFALI LUKA and WEKESA PATRICK way back in 2011 as per annexure marked 1A
- (b) That this property was later relinquished to me (his son) by way gift as per the attached annexure marked 2B.
- (c) That even his fellow co-administrator Mr. Peter Wangila is aware of this and sworn to the same as per his own affidavit marked 3C
- (d) That this court directs the Applicant to be specific on the estate he is referring to and subsequently show proof founded on reasonable grounds that there is property of the deceased in Uganda and registered in his names
- (e) That there is no property I am holding in trust for the deceased one Luka Matifari Wobata and if any, let him produce evidence or proof. Failure of which, this notice of motion be dismissed technically with costs.
5. The Respondent further filed a **SUPPLEMENTARY** affidavit in reply and averred that-
- (a) This application is incompetent and an abuse of court process which ought to be dismissed
- (b) That paragraph 3 of the affidavit in support is false as the Applicant is not the sole administrator as alleged;
- (c) That paragraph 4 of the affidavit in support of the application is false as plot No. 210, Block 4 Bulambuli was given to me as a gift *inter vivos* by the late MATAFALI LUKA in the year 2012; (Annexure 2B)
- (d) That the said land had been jointly registered in my names and MATAFALI LUKA (Annexure 1A)

- (e) That after acquiring the suit land as gift, I registered the same in my names. (Annexure C)
- (f) That at the time of the demise of our late father he had no interest in the said land and it was not part of the estate to be distributed;
- (g) That the letters of administration granted in Kenya Court cannot be enforced in Uganda without being resealed and therefore this application is incompetent;
- (h) That the High Court of Kenya never had jurisdiction to adjudicate upon the land situate in Uganda and such a judgment without jurisdiction cannot be enforced under the laws of Uganda;
- (i) That the property situate in Uganda (Bulambuli) plot 210 land at Marakaru is my personal property but not estate land;
- (j) That paragraph 2 of the affidavit in support is false as the Applicant has never been an administrator of the estate of the late LUKE MATIFARI OBATA.
- (k) That this application has not shown grounds for the grant of registration of Bugoma High Court Judgment and enforcement in Uganda as the same lacks merit;
- (l) That it is in the interest of justice that the same is dismissed with costs.

6. **Background**

7. The background of this application is that the father of the Applicant and Respondent (one Luka Matifari Wobata) died on 31st of May, 2012. Upon his death, on 13th of July, 2016, a one Peter Wangila Matifari and Rodgers Matifari Obata applied for letters of administration which were granted on 21st of July, 2016 by the High Court of Kenya at Bungoma.
8. The Applicant/ Administrator further instituted Succession Cause No. 195 of 2014, where the High Court of Kenya at Bongoma at page 11 of its judgment found that the registration of the Respondent on Marakaru/ Bubadiri Block/Road 4 Plot 131 in Uganda was fraudulent and that the same formed part of the estate and available for distribution.
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10. **Legal Representation**

11. Counsel Angura Emmanuel represented the Applicant whereas Counsel Wamimbi Jude represented the Respondent.

12. This application proceeded by way of written submissions and all the parties complied.

13. **Submissions of counsel for the Applicant**

14. Counsel for the Applicant submitted that paragraph 3 and 4 of the affidavit in support stated that he is the administrator of the estate of his father and that his father left land in Uganda comprised in FRV 1250 Block 4 at Bulambuli district. That according to the Kenya judgment, the same land was ordered to be shared by all the beneficiaries of the estate.

15. Counsel submitted that for the foreign judgment to be enforced, the High Court of Uganda must first recognize it and will do so where such judgment has not been appealed against, the same is final and has not been obtained by fraud. He argued that the judgment in issue is valid judgment from a competent Court of Bungoma High Court.

16. He cited section 3 (1) of the Foreign Judgment (Reciprocal Enforcement) Act Cap 9 [Cap 10] and Rule 4 of the Foreign Judgment (Reciprocal Enforcement) Rules SI, 9-1) and argued that those provisions give the Applicant opportunity to apply to this court to enforce and register Bugoma Judgment.

17. Counsel further cited section 2 of the Foreign (Reciprocal Enforcement) (General Application Order 35/2002 which states that part of the Foreign Judgment (Reciprocal Enforcement) Act shall apply to the territories of the common wealth and to judgment obtained in the courts of those territories as it is to foreign countries.

18. Counsel also cited the case of ABSA Bank Uganda Ltd V. UCHUMA (Civil Case 316 of 2021, where it was held that where a foreign court has adjudicated upon a claim and issued a valid judgment, its legal obligation arises to satisfy that claim in a country where the judgment needed to be

enforced. Such recognition is accorded not as an act of courtesy but on consideration of basic principle of justice and good conscience.

19. He submitted that the judgment at hand was determined by Kenyan High Court sitting at Bungoma which was seized with Jurisdiction to determine the issue which was about the Estate of the late Waobata, the decree for sub division of part of the Estate which is found in Uganda, a common wealth country like Kenya, can be enforced since the two countries have the reciprocal arrangement. Counsel invited this court to allow the application

20. Submissions of counsel for the Respondent

21. Counsel for the Respondent submitted that the Applicant under paragraph 3 of the affidavit in support alleges that he was fully granted letters of administration of the estate of his father Luke Matifari Waobata by the Kenya High Court sitting in Bungoma which in his view is a lie because annexure "A" to the affidavit in support are letters of administration of the estate of Luka Matifari Waobata that were granted to Peter Wangira Matifari and Rogers Matifari Obata which is contrary to the allegations by the Applicant in paragraph 2 and 3 of his affidavit.

22. Counsel submitted that apart from the letters of administration which is marked as annexure "A" the other documents have not been properly marked and annexed to the affidavit and cannot therefore be relied upon since they are strange to the evidence of the Applicant and prayed that the same be rejected and struck off the record.

23. He submitted that the Applicant claims that his late father left land in Uganda comprised FRV 1250, Folio Block 4, Bulambui and the same was ordered by the court to be shared by all the family members of Luka Matifari Waobata. He stated that the Applicant does not indicate which court ordered the sharing of the property and secondly, Luke Obata is a stranger who is not known to the Respondent and has never been his father because his father was Luka Matifari Waobata and to make matters

worse, no court judgment has been referred to by the Applicant for ease of reference.

24. He submitted that the application under paragraph 7 of the affidavit in support is seeking for the registration of Bungoma High Court Judgment and enforcement of the same in Uganda, yet the High Court in Kenya has no jurisdiction over land which is in Uganda and such a judgment cannot be enforced in Uganda. Additionally, the Respondent argued that the Applicant has no locus to sue basing on letters of administration that have not been resealed by the High Court in Uganda.

25. **Issues for determination framed by court**

(a) Whether the Applicant has *locus standi* to institute this application?

(b) Whether the judgment delivered in Kenya can be registered in Uganda?

26. **Analysis of court**

27. **Issue No.1:** *Whether the Applicant has locus standi to institute this application?*

28. The Respondent contended that the Applicant is not the Administrator of the estate of late Luke Matifari Waobate. However, according to the letters of administration, the High Court of Kenya at Bungoma, granted letters of administration to the Applicant and Peter Wangila Matifari.

29. There is however no proof that the said letters of administration were produced to court and resealed as required by law.

30. Section 2 of the Probates (Resealing) Act Cap 266 provides that-

“Where a court of any country other than Uganda, grants probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may, on being produced to, and a copy deposited with, the High Court, be sealed with the seal of that court, and thereupon shall be of the like force and effect, and have the same operation in Uganda as if granted by that court.

31. That provision of the law permits the High Court, upon production, to reseat letters of administration granted by a court of a foreign country.

Guided by that provision, the letters of administration granted to Peter Wangila Matifari and Rodgers Matifari Obata on 21st July 2016 by the High Court of Kenya at Bungoma ought first to have been resealed by the High Court of Uganda in order to have force and effect in Uganda and thereby confer *locus standi* upon the applicant to institute this application. However, this was not done.

32. It is also imperative to note that the said letters of administration were granted to two persons, as indicated above. The purpose of granting letters of administration to two or more individuals is to ensure that they jointly administer the estate. Consequently, this application ought to have been instituted by both administrators jointly.
33. It follows therefore, that the Applicant has no *locus standi* to institute this application.
34. Issue No.1 is answered in the negative.
35. **Issue No.2:** *Whether the judgment delivered in Kenya can be registered in Uganda?*
36. Section 3 (1) (a) & (b) of the Foreign Judgments (Reciprocal Enforcement) Act Cap 10 provides that-

“(1) A person, being a judgment creditor under a judgment to which this Part of the Act applies, may apply to the High Court at any time within six years after the date of the judgment or, where there have been proceedings by way of appeal against the judgment, after the date of the last judgment given in those proceedings, to have the judgment registered in the High Court, and on any such application the court shall, subject to proof of the prescribed matters and to the other provisions of this Act, order the judgment to be registered, except that a judgment shall not be registered if at the date of the application—

(a) it has been wholly satisfied; or

(b) it could not be enforced by execution in the country of the original court.”

37. My comprehension of the provision is that a person instituting this kind of application must be a judgment creditor under the judgment in issue.
38. Secondly, a judgment shall not be registered where it has been wholly satisfied or where it could not be enforced by execution in the country of the original court. In addition, any application for registration must be made within six years from the date of the judgment.
39. The judgment which the Applicant seeks to register in this case relates, inter alia, to the distribution of land forming part of the estate of the deceased and situate in Uganda. The pertinent question therefore is whether the Applicant qualifies as a judgment creditor, and further, whether such an order, decree, or decision could be enforced by way of execution in Kenya, given that the land in question is located in Uganda.
40. My answer to the first question would be yes. Since the Applicant is a beneficiary to the estate of late Luke Matifari Waobata would in my view be considered to be a judgment creditor in the circumstance of this case.
41. However, as to whether the judgment could be enforced in Kenya, part of it could not, in my view, be executed there, since the land in respect of which the order was made is not situated in Kenya but in Uganda.
42. I am alive to Rule 2 of the Foreign Judgment (Reciprocal Enforcement) (General Application) Order 35/2002 which provides that-

Part ii of the Foreign Judgments (Reciprocal Enforcement) Act shall apply to the territories of the commonwealth and to judgments obtained in the Courts of those territories as it applies to foreign Countries.”
43. However, since the part of the judgment which the Applicant seeks to enforce could not be executed in Kenya, the same cannot be registered in Uganda as per section 3 (1) (b) cited above. Uganda enforces only those judgments that are valid, subsisting, and executable in their home

jurisdictions and declines to enforce judgments that the foreign legal system itself would not enforce.

44. In the case of **Volcano Holding Ltd V. All African Logistic Solutions (Miscellaneous Cause No. 230 of 2021) [2022] UGHCCD 112 (27 July 2022)**, Justice Ssekana noted that- *“Registration is a matter of discretion. The court may order the judgment to be registered if it is just and convenient in all the circumstances of the case to do so.”*

45. Therefore, guided by Section 3 (1) (b) of the Foreign Judgments (Reciprocal Enforcement) Act and section 2 of the Probates (Resealing) Act, this application is dismissed.

46. The Applicant shall meet the costs of this application

47. I so order.



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JUSTICE DR. LUBEGA FAROUQ

JUDGE

Ruling delivered via the emails of the advocates of the parties on 31st of December, 2025