

BIRUNGI & CO. ADVOCATES

Legal Consultants, Attorneys at Law, Company Secretaries, Notaries Public, Commissioners for Oaths, Trademarks, Patents and Intellectual Property Consultants, Tax Consultants, Property Managers, Project Legal Consultants and Environmental Law Specialists

Our Ref: BCO/087/2022

Date: 07th November, 2022

Your Ref:

Hon. Minister of Lands,
Ministry of Lands, Housing and Urban Development
P.O. Box 7096
Kampala, Uganda

2nd November 2022

Dear Madam,

RE: CLEARANCE OF SALE OF LAND SITUATED ON BLOCKS 372-373 AND 366 NAKIGALALA AND KANSIRI TO NATIONAL SOCIAL SECURITY FUND BY MADHAVANI GROUP LTD.

We act for and on behalf of the Administrators and beneficiaries to the Estate of the Late Prince Yusuf Suuna Kiwewa hereinafter referred to as our Clients and on whose instruction we humbly address you as hereunder;

It has come to our clients' attention that the office Hon. Minister of State, for Lands and your office have cleared the sale of land on Blocks 372-373 and 366 situated at Nakigalala to NSSF by Madhvani Group Ltd.

We would like to draw your attention to our petition Ref; BCO/GEN/2021 dated 22nd December 2021 to the Office of Inspectorate of Government a copy of which was filed to your office and other stake holders and duly received on the same day. In our petition we highlighted elements of fraud in the mutation process of our clients land.

Background to the ownership claims by the family of the late Yusuf Suuna Kiwewa.

- 1) Yusuf Suuna Kiwewa was born on 16 February 1898 to Sekabaka Danieri Mwanga and Queen Esiteri Nabunya. He died in 1949, at the age of 51.

- 2) At the time of signing the Buganda/Uganda agreement in 1900, Prince Yusuf Kiweewa was only 2 years old. The agreement allocated 8 square miles of land to Prince Yusuf Suuna Kiwewa.
- 3) As per the historical records and correspondences accessed from the Department of Surveys and Mapping in your Ministry, the original customary land owner of block 372-373 in Nakigalala and block 366 at Nansiri is Yusuf Suuna Kiwewa.
- 4) The historical records show Grant No. 9100 was given to H. Dewhurst in 1911 under unclear circumstances. **It's important to note that by 1911, Yusuf Suuna Kiwewa was only 13 Years of age. Could a minor contract at 13 years?**
- 5) Alexandria .E. Simbwa was registered as proprietor on block 372 plot 2 on the 7th September 1955 with no predecessor ownership of land in tittle. The above land had been in possession of H. Dewhurst by virtue of grant No.9100 under questionable circumstances. **This registration was disowned by Miss Sarah Kulata the then Commissioner Land Registration as being forged.**
- 6) On 8th June 1960 under Instrument No. 14701 the land comprised in FRV 45 Folio 2 measuring 948.15acres was registered in the names of Madhvani Sugar Works Ltd with no predecessor ownership of land in tittle. The above land had been in possession of H. Dewhurst by virtue of grant No.9100.
- 7) In 2012 Alexander David Simbwa with a forged land tittle took Madhvani Group Ltd to court in; **Madhvani Group Ltd versus Alexander David Simbwa and three others; Civil suit No.615 of 2012 LAND COMPRISED IN BLOCK 371 AT NAKIGALALA.** The decision of court was in favor of Madhvani Group Ltd because the Ministry disowned Simbwas' tittle as being fraudulently obtained.
- 8) By historical records on this land, the two parties in court were fraudulent so the court decision was not binding to the family of the late Yusuf Suuna Kiwewa who are the original customary land owners since there's no record showing any sale by Yusuf Suuna Kiwewa.

- 9) In 2014 Fredrick Junju who was not a member of the Yusuf Suuna Family took advantage of the advanced age of Luwedde Victoria the then surviving daughter of Yusuf Suuna who had actually received her share of the estate as per the will of Yusuf Sunna and filed a case; Fredrick James Junju and Luwedde Victoria Vs Madhvani Group Ltd and Commissioner Land Registration. Civil Suit No. 508 of 2014. Again the decision on this stage managed matter was in favor of Madhvani Group on Technicalities.
- 10) Prince Joseph Kiggala who lives in the United States of America was the then surviving administrator of the estate at the time this case was filed and decided. He had no knowledge of the ongoing litigation against the property of the late Yusuf Suuna Kiwewa.

When the rightful beneficiaries got to know of the above filed cases and Court decisions, they embarked on process of establishing the historical facts concerning their land to inform their next legal action. From the judgments, the defendants were hiding behind technicalities rather than merit. Scrutiny of the documents submitted to Court as evidence by both parties shows elements of fraud in their acquisition process.

The family through different stake holders attempted to get historical information and documents on said land from the office of the Commissioner land registration but with no much success. The family opted to use other alternatives means;

- 1) On the 20th September 2019, a case file referenced CIDHQTRS GEF/1041/2019 was opened at the Criminal Investigation Directorate on allegation of conspiracy to defraud the Government and fraudulent issuing of certificates of titles for Busiro Blocks 366,371,372 and 374 land at Nakigalala, Wakiso District. This complaint was raised by the Director General of Internal Security Organization through the State House Anti-Corruption Unit.
- 2) On the 12th December 2019, a progress report was released for the Director Criminal Investigation with the following findings; (See

the attached copy of the progress report to Director CID marked as A)

- a) The original customary owner of blocks 366 and 372 was Yusuf Suuna Kiwewa.
 - b) Blocks 366 & 372 were converted from MRV to FRV45 Folio2 through a special title under instrument 462012 for a total acres of 948.15 in the names of Madhvani Group Limited with no successive ownership in title.
 - c) The registered interest by Madhvani Sugar Works Limited as at 1960 and Madhvani Group Limited in 2012 have no route and without Deed Plan and the land had been fraudulently sub divided into various plots including Plots 5&6 where suspected false deed plans have been created.
 - d) They also observed that Mr. K.P Eswar who was the representative of Madhvani Group Limited refused to participate in the then ongoing inquiry. This laid a source of doubt to the proprietorship claims by Madhvani Group Limited.
- 3) The report also further observed that on the 17th of October 2019, the Permanent Secretary Ministry of Lands Housing and Urban Development wrote to the Director CID postponing the participation of; Herman Galiwango, Robert Opio, Dr. Joseph Batume and Kakarerwe Yusuf who were staff of the Ministry on the ground this matter was being handled through Civil suit No.33 of 2013. However the CID Directorate clarified that the matters being investigated are criminal liability not civil.
- 4) A copy of the progress report was given to the Permanent Secretary Ministry of lands Housing and Urban Development so the Ministry is fully aware of the fraudulent actions committed by Madhvani and his accomplices from the Ministry and this ought to have been brought to your attention before clearance of the sale.

(See the attached copy of the progress report to Director CID marked as A)

- 5) In November 2019, the Administrators of the estate petitioned Lt. Col. Edith Nakalema, A, the then Head of Anti-Corruption Unit, State House for her intervention. Unfortunately the family was not listened to and the outcome of the investigation has never been shared. (Please see a copy of the petition annexed as B)
- 6) The family was referred to CID for the copy of the report. The Administrators through Luzige, Lubega, Kavuma & Co. Advocates wrote to the Director CID, Kibuli for the report but ever since there has been no response up to today. (See the attached copy of the letter to Director CID marked as C)
- 7) On 22nd December 2021, we petitioned the office of the IGG protesting the proposed sale of land on blocks 371,372, 374 in Nakigalala and 366 in Kansiri to NSSF by Madhvani Group Ltd.

We pointed out the irregularities in the title offered for sale, mutation process and also contested the circumstances under which the ownership of the said lands changed hands from Yusuf Suuna Kiwewa who was the original customary land owner to Madhvani Group Ltd who are the current holders of title. We are yet to receive the outcome of the investigation. *A copy of this petition was filed to your office, NSSF and it was duly received on the 22nd December 2022.* (Please see a copy of the petition annexed as D).

- 8) On the 3rd October 2022, we caused a polite reminder to the Inspector general of Government asking for the outcome of the investigation. However they attribute the delay to the non-responsiveness by the technical officers in your Ministry in providing the investigators with the relevant documentation necessary for the exercise to be concluded. *A copy of this submission was filed to your office, NSSF and it was duly received on the 3rd October 2022* (Please see a copy of the reminder annexed as E).

- 9) On the 12th August 2022, Ministry of Lands Housing and Urban Development through the Permanent Secretary invited; RDC Entebbe, Mayor Kajansi Town Counsel, General Manager Madhvani Group Ltd, Administrators of the Estate of Omuwanga Omuwesi, Administrators of the Estate Yusuf Suuna Kiwewa, Administrators of the Estate Daudi Chwa and the Administrators of the Estate of Prince David Alexander Simbwa for harmonization meeting of stake holders on land on blocks 371,372 and 374 Busiro. *A copy of this invitation was filed to your office as well (Please see a copy of the invitation letter annexed as F).*
- 10) On the 25th of August 2022, a meeting was held in the ministry boardroom by the invited stake holders and the Ministry technocrats chaired by Mr. Vincent Byandamira on behalf of the Permanent Secretary. A number of resolutions were made; Constitution of the a verification committee to do an audit trail of the mutation process of the land from the time of its baseline survey in 1900 to the current registered owner, submission of evidence of ownership claims by various stakeholders to the office of the Permanent Secretary among others. **(Please see a copy of the minutes of the meeting annexed as G).**
- 11) On the 7th of September 2022, we submitted our documentary evidence of claim to Blocks 372-373 at Nakigalala and Block 366 at Kansiri as guided by one of the resolutions of the meeting of 25th August 2022. *A copy of this submission was filed to your office and it was duly received on the 7th October 2022 (Please see a copy of the submission annexed as H).*
- 12) On the 7th October 2022, we submitted additional information explaining why the family had not yet challenged the court decisions of civil suit No.615 of 2012 and Civil suit No. 508 of 2014. *A copy of this submission was filed to your office, NSSF and it was duly received on the 7th October 2022 (Please see a copy of the additional submission annexed as I).*

Hon. Minister, the Matter of our clients now being handled by The Verification committee constituted by the Permanent Secretary Concerns sophisticated and syndicated land frauds manifested by unscrupulous land registry officials in conspiracy with Madhvani Group Ltd. It's

prudent that the historical land transactions documents on this land be probed as it is already being to establish how the land frauds were manifested since frauds are mainly committed in documents.

Further to that, the mandate of the committee is also to establish the historical successive ownership of land in tittle up to the current ownership.

Hon. Minister, it's becoming a matter of concern that the technical officers in your Ministry have frustrated all efforts by our clients in accessing information on the historical transactions of this land;

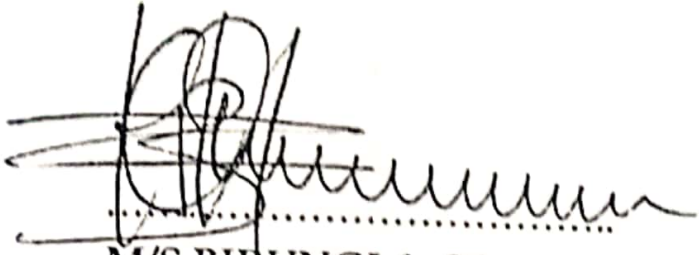
- a) From the progress report dated 12th December 2012 a dressed to the Director, CID and copied to the PS Ministry of land, there was an attempt by the PS to block the officials from the Ministry from being investigated on the criminal liability on the transactions.
- b) Secondly, they have refused to furnish the office of the IGG with the necessary documents to our petition of December 2021.

It's therefore our strong opinion that the rush to have this sale concluded by Madhvani Group Ltd is suspicious since the history of their registration on this land is questionable.

We also want to request your ministry to furnish the office of the IGG with the information requested for. We do strongly believe that once availed with all the historical and documentary records pertaining to the disputed lands as requested for by IGG, we shall adequately advise our Clients on the best options available and next course of action.

This therefore to request you to reconsider your decision to clear the sale of the above land to allow the technical team constituted by the Permanent Secretary conclude the documentary audit process.

We thank you.



M/S BIRUNGI & CO. ADVOCATES

- CC: Rte. Hon Speaker of Parliament, Government of Uganda
- CC: Hon. Minister, Ministry of Gender Labor and Social Development.
- CC: Hon. Minister of State, for Lands, Ministry of Lands Housing and Urban Development.
- CC: Hon. Minister of State, Housing, Ministry of Lands Housing and Urban Development.
- CC: The Solicitor General, Ministry of Justice and Constitutional Affairs.
- CC: Inspector General of Government.
- CC: Resident State District Commissioner, Entebbe
- CC: Mayor, Kajansi Town Council.
- CC: Managing Director, National Social Security Fund.
- CC: Clients