



## **2. No orders as to costs.**

Grounds of this application are set out in the affidavit in support of the application sworn by Labila Sumayah Musoke, but briefly are that: -

- 30 i. **The Applicants possess demonstrable expertise and knowledge on matters concerning reproductive health rights, local, regional and international maternity rights jurisprudence and comparative international law.**
- ii. **The 1<sup>st</sup> Applicant is a national human rights non-governmental organization devoted to advocacy and the enforcement of social and**  
35 **economic rights.**
- iii. **The 2<sup>nd</sup> Applicant being a global human rights organization has a proven commitment and continuing interest in the promotion, observance and protection of reproductive health rights.**
- iv. **The Applicants have interest in the determination of the main cause as a**  
40 **human rights advocacy entities in fidelity to the law.**
- v. **The Applicants are neutral and impartial of the dispute between the parties in the main cause.**
- vi. **The points of law submitted upon by the Applicants are novel and shall aid the development of jurisprudence in Uganda.**
- 45 vii. **The Applicants have previously been admitted as amicus curiae in human rights enforcement matters, presented amicus briefs, publications, reports, expert legal opinions and inter-party submissions to national, regional and international human rights adjudicating bodies/courts, treaty monitoring bodies on substantive matters of law pertinent to maternal,**  
50 **post-natal, patient and reproductive health rights.**
- viii. **The Applicants have examined the existing legal regime, guidelines and regulations pertaining to reproductive health rights, patient admission**

and handling, children rights and is intent on making compelling submissions that will aid the court in arriving at a just decision in the main cause whilst progressing respect for human rights, governance and maternal/reproductive health rights.

ix. The Applicants have perused the notice of motion, supporting affidavits, affidavits in reply and supplementary affidavits as filed by the parties in the main cause and find that there are questions pertinent to its determination concerning maternal health rights, rights of newly born children, rights of a parent of a new born child, post-natal rights and obstetric violence not canvassed by the parties in the main cause which are imperative for court's consideration in determining the main cause.

x. The Applicants will make a distinct and compelling contribution to the main cause with relevant matters of law that are useful, focused and principled.

xi. The Applicant's joint amicus brief shall/will give assistance to the court that it would not otherwise have.

xii. The positive benefits of the intervention of the Applicants as amicus curiae outweigh any possible prejudice/opposition from the parties to the main cause.

xiii. It is in public interest, the interest of justice, the protection and progressive development of human rights and socio-economic reform that the leave sought herein is granted.

The 1<sup>st</sup> & 2<sup>nd</sup> Respondents have no objection to the application while the 3<sup>rd</sup> Respondent opposes the application.





## Background to the application

80 The brief background to this application is that on the 7<sup>th</sup> May, 2023, the 2<sup>nd</sup> had challenges of paying hospital bills to the 3<sup>rd</sup> Respondent where delivered the 1<sup>st</sup> Respondent. The baby was taken to a children's welfare home. It is the 2<sup>nd</sup> Respondent's claim that the 3<sup>rd</sup> Respondent forcefully retained her baby pending payment of their bills and this is why she filed MC No. 126 of 2023. In reply to the  
85 application, the 3<sup>rd</sup> Respondent informed court that the 2<sup>nd</sup> Respondent abandoned the baby with them. That they reported the matter to police and thereafter, took the baby to a children's welfare home.

After part hearing of MC No. 126 of 2023, the Applicants, being Human Rights bodies, now bring this application seeking leave of court to participate in the case as

90 Amicus Curiae.

## Representation

Learned Counsel Elijah Erimo represents the Applicants, Counsel Christopher Ocom is for the 1<sup>st</sup> & 2<sup>nd</sup> Respondents while Counsel Mukiibi Ssemakula is for the 3<sup>rd</sup> Respondent.

95 The Issue framed for this Court's determination is: -

Whether there are grounds to grant the Applicants leave to participate as amicus curiae in Miscellaneous Cause No. 126 of 2023.

## The law on Amicus curiae

Under the Judicature (Amicus Curiae) Rules, 2022, 'Amicus Curiae' means

100 *"a person or organization that is not a party to a suit but who participates in the litigation by providing the court with important information intended to assist the court in making an informed decision."*

Rule 5 of the Amicus Rules, provides for requirements for admission as amicus curiae and it states that the court may admit a person or organisation as amicus

105 curiae who meets the following requirements—

*(a) the person or organisation is neutral and impartial;*

*(b) the court is satisfied that the submission of the person or organisation will give assistance to the court that it would not otherwise have;*

110 (c) the points of law or facts submitted by the person or organisation are novel  
and will aid the development of jurisprudence;

(d) the interest of the person or organisation constitutes fidelity to the law;

(e) the submissions of the person or organisation draw attention to relevant  
matters of law that are useful, focused and principled;

(f) the participation of the person or organisation is in the public interest; and

115 (g) the person or organisation has demonstrable expertise or knowledge in the  
area under dispute.

Rule 6 (2) of the Amicus Rules requires one applying to be an Amicus Curiae to  
provide a brief indicating his/her expertise or justification for consideration to be  
admitted as amicus curiae.

120 I have looked at the application, the supporting affidavit, the law applicable and the  
submissions of counsel for the parties. The intention of the Applicants is to provide  
expert assistance to facilitate comprehensive examination and consideration by this  
court in the determination of this matter. The Applicants intend to share their  
knowledge in the area of reproductive and maternal health issues. I'm satisfied that  
125 the Applicants meet the criteria for admission as Amicus Curiae under the Judicature  
[Amicus Curiae] Rules 2022.

Therefore, I allow this application and order as follows: -

**1. The Applicants be joined to the proceedings as Amicus Curiae**

130 **2. The Applicants shall restrict their participation to their role as Amicus  
Curiae**

**3. The Amicus Curiae shall limit their submissions on points of law on issues  
in the pleadings and shall not introduce extraneous matters**

**4. Each party shall bare its own costs.**

I so order.

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**Esta Nambayo**

**JUDGE**

Dated and delivered by the Registrar at the Civil Division . *this 04/03/18*

*Kurt Simon Zindler*

*[Signature]*