



**IN THE MATTER OF THE COMPANIES ACT CAP 106**

**AND IN THE MATTER OF THE COMPANIES (POWERS OF THE REGISTRAR)**

**REGULATIONS SI NO. 71 OF 2016**

AND

IN THE MATTER OF MITCH MINING CO. LTD  
COMPANY PETITION CAUSE NO. 45933 OF 2025

- 1. PENINAH KENSHEEKA**
- 2. RWABUKURU BENON ASIIMWE ::::::::::::::::::::PETITIONERS**

## VERSUS

1. BOB KATENDE MITCHEL
2. MITCH MINING CO. LTD ::::::::::::::::::::::::::::::RESPONDENTS

## RULING

BEFORE: DANIEL NASASIRA—ASSISTANT REGISTRAR OF COMPANIES

### A. Representation

1. Counsel Aggrey Mpora Mushagara from Maalc Advocates represented the petitioners. The respondents did not enter appearance and never filed any statutory declarations or submissions.

## **B. Background**

2. The petitioners counsel submitted this matter as a petition under Section 262 of the Companies Act Cap 106; however, petitions to the Registrar of Companies may only be filed in accordance with Section 243 of the Companies Act Cap 106. Notwithstanding this, I will proceed to treat this as an application under the Companies (Powers of the Registrar) Regulations SI No. 71 of 2016 for the purpose of resolving this matter.
3. Mitch Mining Co. Ltd was registered as a company limited by Shares on 24<sup>th</sup> January 2020 under registration number 80020002337337.
4. The company had two founding members/subscribers that is the first respondent Katende Bob Mitchel *alias* Ibrahim Katende with 25 shares and the first petitioner Peninah Kensheeka with 25 shares. Fifty (50) shares remained shares on reserve and were never distributed at incorporation.
5. On the 12<sup>th</sup> of November 2021, the first petitioner Peninah Kensheeka and the first respondent Katende Bob Mitchel *alias* Ibrahim Katende made a special resolution in respect to allotment of shares that altered the shareholding structure to Ibrahim Katende with 25 shares and Peninah Kensheeka with 75 shares.
6. Another special resolution was filed on 12<sup>th</sup> December 2021 wherein the first respondent Katende Mitchel Bob transferred his 25 shares to the second petitioner Rwabukuru Benon Asiimwe and ceased to be a company director and member/shareholder. The memorandum and articles of association of the second respondent company Mitch Mining Co. Ltd were also amended accordingly to reflect the new shareholding structure as Peninah Kensheeka 75 shares and Rwabukuru Benon Asiimwe 25 shares.
7. The petitioners later discovered after conducting a company search on the companies register that a special resolution was filed and registered on the 06<sup>th</sup> day of December 2022 by the first respondent Katende Bob Mitchel a former

shareholder wherein he allegedly unlawfully transferred all the 75 ordinary shares belonging to the first petitioner Peninah Kensheeka to himself without any of the shareholders knowledge or consent.

8. The petitioners contend that they never signed any documents including share transfer forms, a resolution transferring shares, amended memorandum and articles of association or participated in the process leading to the transfer of the first petitioner's shares. They contend that the alleged meeting of the shareholders held on the 15<sup>th</sup> day of November 2022 leading to the impugned resolution never took place as stated in the resolution.
9. Following the said alleged unlawful transfer of shares and change in directorship, the first respondent on the 20<sup>th</sup> day of December 2023 filed and registered another company resolution resolving to sell off the company land comprised in Freehold register, volume HQT371 Folio 19, Singo County, Mubende District measuring 412.6090 Hectares to himself and other two persons namely Baryamujura Moses Matsiko and Ssenkusu Edward.
10. The first respondent Katende Bob Mitchel alias Ibrahim Katende further allegedly fabricated the second petitioner's signature and executed an agreement of sale of the company's land and a land transfer form of land comprised in Freehold register, volume HQT371 Folio 19, Singo County, Mubende District measuring 412.6090 Hectares.
11. Upon learning of all the above illegalities, the petitioners through their lawyers Maalc Advocates filed a complaint and this petition to the Registrar of Companies seeking expungement of all the illegally registered resolutions, share transfer instruments and amended memorandum and articles of association. The petitioners further lodged a caveat on the company land.
12. The petitioners through their advocates Maalc Advocates filed all necessary pleadings requesting for rectification of the register under the Companies (Powers

of the Registrar) Regulations SI No. 71 of 2016, a statutory declaration in support and submissions were filed. Summons were issued pursuant Regulation 28 (1) of the Companies (Powers of the Registrar) Regulations SI No. 71 of 2016. Despite efforts to trace the respondents at their known physical addresses and telephone contacts, the applicants were not able to physically serve the respondents. An Affidavit of service was filed to this effect. Leave was granted to the respondents to serve by way of substituted service in a newspaper of wide circulation on 02<sup>nd</sup> April 2025, summons were consequently published in the Daily Monitor on May 14<sup>th</sup> 2025 but still the respondents did not adhere to the summons and chose not file a statutory declaration in reply or appear for the proceedings. Pursuant to Regulation 32 (1) of the Companies (Powers of the Registrar) Regulations SI No. 71 of 2016 the petitioners counsel was granted an order to proceed ex parte.

13. I instructed the petitioners counsel to submit written submissions and I informed them that a decision would be issued on notice. This decision follows consequently.

#### **C. Issues**

14. There are two issues for determination in this matter;

- a) Whether or not the company documents altering the company ownership and directorship were legal endorsements?*
- b) What remedies are available to the parties?*

#### **D. Submissions**

15. The petitioners counsel submitted that the petitioners, who are the initial shareholders of Mitch Mining Co. Ltd, with each holding 75 and 25 shares respectively, incorporated the said company on the 20<sup>th</sup> day of January 2020.
16. Counsel submitted that the petitioners upon conducting a search on the Company register established that a special resolution was on the 06<sup>th</sup> day of December 2022 filed and registered at the Uganda Registration Services Bureau (URSB) wherein

the first respondent unlawfully transferred all the 75 ordinary shares belonging to the first petitioner without her knowledge and consent.

17. On the 15<sup>th</sup> November 2022, the first respondent purported to hold a meeting without the consent of the petitioners, fabricated their signatures, unlawfully transferred share stock and amended memorandum and articles of association to alter the original shareholding. This was done without a notice inviting the petitioners for the said meeting. In fact, no minutes or attendance record exists to prove that this meeting ever happened.
18. On the 20<sup>th</sup> day of December 2023, the first respondent further filed and registered a special resolution to sell the company's property comprised in Freehold register, volume HQT371 Folio 19, Singo County, Mubende District measuring 412.6090 Hectares to himself, Baryamujura Moses Matsiko and Ssenkusu Edward. This was done without the knowledge or consent of the petitioners.
19. On the 22<sup>nd</sup> day of November 2023, the first respondent fabricated the second petitioner's signature and executed a land transfer form and an agreement of sale of the company's land comprised in Freehold register, volume HQT371 Folio 19, Singo County, Mubende District measuring 412.6090 Hectares. Counsel submitted that while a caveat has been lodged at the Registry of Lands to bar any further transactions on this land, it is important for the impugned resolution authorizing this sale to be expunged from the company register.
20. Counsel relied on the case of *Mathew Rukikaire V Incafex Ltd CA No. 3 of 2025* to argue that a share is property and one who subscribes for shares at incorporation is considered as having purchased property in terms of shares. Counsel argued that the unlawful transfer of ones shares without following the requisite procedure should not be condoned by the Registrar of Companies.
21. Counsel contended that the first respondents actions of executing a transfer instrument on the 12<sup>th</sup> day of December 2021 as stated under paragraph five of the

first petitioner's statutory declaration and later extracting a special resolution on the 15<sup>th</sup> day of November 2022, transferring 75 shares to himself and procuring signatures belonging to the petitioners amounts to unlawful actions and these documents must be expunged from the company register.

22. Counsel submitted that the petitioners have faithfully invested in the company and being deprived of their shareholding in this regard by the first respondent is not only illegal but has continuously caused them heavy financial loss for which the first respondent should be held liable. Counsel prayed that all illegally registered documents be expunged and the rightful shareholders of the company be reinstated as Peninah Kensheeka 75 shares and Rwabukuru Benon Asimwe 25 shares and prayed for costs of the petition.

#### **E. Determination**

23. I carefully read the submissions of counsel for the applicant and will proceed to determine the issues.

*Whether or not the company documents altering the company ownership and directorship were legal endorsements?*

24. The first petitioner in paragraph six of her statutory declaration indicates that her and the second petitioner were shocked to learn of a special resolution that was filed and registered with the Registrar of Companies with their signatures providing for a transfer of 75 shares from the first petitioner to the first respondent. Consequently, the first petitioner was removed as director of the second respondent and the first respondent further proceeded to file and register a resolution and agreement selling off company land. The first petitioner deposes in her declaration that she is aggrieved by the actions of the first respondent, who without the knowledge or consent of the petitioners orchestrated a series of documents illegally and irregularly. Particularly these documents include;

- (i) A special resolution dated 15<sup>th</sup> November 2022 and registered on 06<sup>th</sup> December 2022 which transfers all the first petitioner's 75 shares to the first respondent and amends the company's memorandum and articles of association to reflect the new share subscription as Katende Bob Mitchel 75 shares and Rwabukuru Benon Asiimwe 25 shares.
- (ii) Transfer of shares instrument registered on 06<sup>th</sup> December 2022 transferring the first petitioners 75 shares to the first respondent.
- (iii) An ordinary resolution and form 20 registered on 06<sup>th</sup> December 2022 removing the first petitioner as director/secretary of the company and replacing her with the first respondent.
- (iv) Amended memorandum and articles of association registered on 06<sup>th</sup> December 2022, altering the share subscription to reflect Katende Bob Mitchel 75 shares and Benon Rwabukuru 25 shares.
- (v) An extra ordinary resolution filed and registered on 20<sup>th</sup> December 2023 selling off the company's land comprised in Freehold register, volume HQT371 Folio 19, Singo County, Mubende District measuring 412.6090 Hectares to the first respondent, Baryamujura Moses Matsiko and Ssenkusu Edward.
- (vi) An agreement of sale executed on the 22<sup>nd</sup> day of November 2023 disposing off company's land comprised in Freehold register, volume HQT371 Folio 19, Singo County, Mubende District measuring 412.6090 Hectares.

25. I will go ahead and analyze the submissions made by counsel invoking the powers of the Registrar of Companies to rectify the register of Mitch Mining Co Ltd in respect to the alleged filed documents highlighted above.

*a) Share transfer form/instrument, Special resolution transferring shares and Amendment of the company's memorandum and articles of association.*

26. The original Articles of association of Mitch Mining Co Ltd under Article five (5) providing for transfer and transmission of shares stipulate that, '*any party to this*

*agreement proposing to transfer any shares shall give notice in writing to the other parties. The transfer notice shall specify the number of shares the transferor proposes to transfer. The initial parties to this agreement shall have priority over any other party to purchase such shares.'* The first petitioner did not provide any notice indicating her intention to transfer her shares, as mandated by the company's articles of association. This provision of the articles of association was essential prior to the execution of such a transfer or its validation as a legitimate transfer. The absence of this notice supports the claim made by the first petitioner that she did not execute or sign the transfer instrument in question. (See *Ddungu Henry and Another v Muwonge Andrew and Others* (Company Application No. 41804 of 2024) [2025] UGRSB 12 (27 May 2025))

27. The learned Justice James Ogoola in *Jack Wavamuno Vs Kai Anderson and Others HCCS No. 33 of 1996* in nullifying a share transfer highlighted that, '*I am satisfied that indeed the share Transfer Agreement (Exhibit P.6) was neither signed nor sealed by either CAPRICORN or FISHTEC as they should have done by requirement of law. In addition to all the above defects submitted by the Defendants, it is also quite evident that the purported sale and transfer of shares in this case did not satisfy a veritable number of the Company's own Articles of Association to wit; Regulation 19 which requires the share transferor and transferee to execute the transfer instrument...*' Similarly in the instant case, the transfer form was not executed by the first petitioner as required by the Company's Articles of Association and therefore the said transfer form constitutes an illegal endorsement.

28. Section 83 of the Companies Act Cap 106 provides that, '*notwithstanding anything in the articles of a company, it is not lawful for the company to register a transfer of shares in or debentures of the company unless a proper instrument of transfer has been delivered to the company.*' This provision emphasizes that the instrument for transferring shares, specifically the transfer form, must be properly executed for



the transfer to be considered legally valid. The transfer form for the first petitioner's seventy-five (75) shares was not executed/signed by her, and thus cannot be considered a properly executed instrument of share transfer. In *Kababure v Besigye & 2 Others (Application 29939 of 2023) [2025] UGRSB 8 (16 April 2025)*) transfer forms not executed by the transferor were deemed to constitute an illegal endorsement in the meaning of Regulation 8 of the Companies (Powers of the Registrar) Regulations SI No. 71 of 2016. The submission by the petitioner's counsel convincingly demonstrates that the first petitioner did not receive any notice inviting her to discuss the proposed share transfer. How could she then proceed to sign a transfer form and a resolution if she did not have knowledge of the same in the first place? Furthermore, the absence of minutes to substantiate any discussion regarding the transfer of these shares supports the finding that the transfer form was not executed by the first petitioner.

29. Section 144 of the Companies Act Cap 106 provides that, '*a resolution shall be a special resolution when it has been passed by a majority of not less than three fourths of such members as, being entitled so to do, vote in person or, where proxies are allowed, by proxy, at a general meeting of which notice specifying the intention to propose the resolution as a special resolution has been duly given.*' Both petitioners never participated in any members meeting where the special resolution dated 15<sup>th</sup> November 2022 and registered on 06<sup>th</sup> December 2022 removing the first petitioner as a director and transferring all her 75 shares to the first respondent was passed, nor were they given any notice of a meeting that led to the alteration of the memorandum and articles of association. There was no general or extra ordinary general meeting called to pass the said amendments. The applicants were never served the required statutory notice for the purported meeting that passed the amendments. The same applies to the special resolution filed and registered on 20<sup>th</sup> December 2023 selling off the company's land comprised in Freehold register,

volume HQT371 Folio 19, Singo County, Mubende District measuring 412.6090 Hectares to first respondent, Baryamujura Moses Matsiko and Ssenkusu Edward.

30. Section 148 of the Companies Act Cap 106 stipulates that, *'every company shall cause minutes of all proceedings of general meetings and of all proceedings at meetings of its directors, to be entered in books kept for that purpose.'* Subsection 2 continues to provide that, *'any minute referred to in subsection (1) purporting to be signed by the chairperson of the meeting at which the proceeding were held or by the chairperson of the next following general meeting or meeting of directors as the case may be shall be evidence of the proceedings.'* In this case, there are no company minutes as mandated by Section 148 of the Companies Act Cap 106 to support the alleged meetings held on 15<sup>th</sup> November 2022 and 22<sup>nd</sup> September 2023 at the company offices. Additionally, there is no attendance record to confirm the occurrence of these meetings.
31. Section 9 of the Companies Act Cap 106 provides that, *'a company may not alter the conditions contained in its memorandum, if any, except in the cases in the mode and to the extent for which express provision is made in the act.'* One of the requirements for an amendment of the memorandum to be deemed valid is under Section 10 (2) (a), which provides that a resolution to amend a memorandum may be passed, *'by the holders of not less in aggregate than fifteen percent in nominal value of the company's issued share capital or any class of them, if the company is not limited by shares, not less than fifteen percent of the company's members.'* In this case, the petitioners as initial members of Mitch Mining Co. Ltd holding not only fifteen percent but a hundred percent of the shares in the company, did not authorize this amendment as they did not execute the instrument that sanctioned the amendment. The amendment of the memorandum thus constitutes an illegal endorsement according Regulation 8 of the Companies (Powers of the Registrar) Regulations SI No. 71 of 2016 .
32. Section 16 of the Companies Act Cap 106 provides that, *'subject to the provisions of the act and the conditions contained in the memorandum, if any, a company may by*

*special resolution alter its articles.'* There was no special resolution passed by the rightful and lawful members of the company in order for the amendment of the articles of association to have any effect in law pursuant to the aforementioned section.

***b) Change of the Company's director/ Secretary***

33. An ordinary resolution dated 15<sup>th</sup> November 2022 was registered on 06<sup>th</sup> December 2022. The resolution in its introduction states that, *'at the extra ordinary meeting of the shareholders of Mitch Mining Co. Ltd held on the 15<sup>th</sup> day of November 2022, at the registered office of the company the following was resolved,'*

i) *'Peninah Kensheeka ceases to be director/secretary,'*

ii) *'Katende Bob Mitchel be and is hereby appointed as new director/secretary.'*

34. Consequently, a form changing particulars of directors and secretary (form 20) was registered on 06<sup>th</sup> December 2022 to reflect the above changes. The first petitioner, who is a resident of the United Kingdom did not receive any notice inviting her to discuss her cessation as director/secretary as alleged in the introduction of the resolution purporting that there was a meeting on the 15<sup>th</sup> day of November 2022 to discuss her removal as director/secretary and appointment of the first respondent as director/secretary. How could she then proceed to sign a resolution if she did not have knowledge of the same in the first place? Furthermore, the absence of minutes to substantiate any discussion regarding this change in directorship/secretary position supports the finding that this resolution removing the first petitioner as director/secretary was not executed/signed by her.

35. Additionally, as already highlighted in part a of this decision above, there are no company minutes as mandated by Section 148 of the Companies Act Cap 106 to support the alleged meeting held on 15<sup>th</sup> November 2022 at the company offices that resulted into the change of the directorship/secretary position. There is even no attendance record to confirm the occurrence of this meeting. This resolution

was therefore both irregularly obtained and illegally executed. I find that the company form 20 (particulars of directors/secretary) and ordinary resolution which were registered on the 06<sup>th</sup> day of December 2022 were illegally endorsed and thus ought to be expunged from the company register.

***c) Company Data on the Online Business Registration portal***

36. Following the roll out of a new online digital system called the online business registration system (OBRS), the Uganda Registration Services Bureau embarked on the process of updating information of all entities registered before 09<sup>th</sup> December 2022. All owners of companies registered before this date were duly informed of this development and requested to update their company data. The first respondent consequently proceeded and updated Mitch Mining Co Ltd's data on the new system. This data reflects fundamental changes, which includes data reflecting the current members of the company who were appointed using illegal and irregular documents as discussed in the first section of this decision above. The data also reflects Bob Katende alias Ibrahim Katende as a company director and secretary yet he had been removed as company director/shareholder per a company resolution dated 12<sup>th</sup> November 2021 and registered on 06<sup>th</sup> December 2021.

37. The system also currently bears data including Bob Katende as a beneficial owner yet legally he is not a member or indirect beneficiary of this company. The Companies (Beneficial Ownership) Regulations SI No. 1 of 2023 define a beneficial owner as, *'a natural person who has final ownership or control of a company or a natural person on whose behalf a transaction is conducted in a company, and includes a natural person who exercises ultimate control over a company.'* Bob Katende Mitchel alias Ibrahim Katende cannot be said to a beneficial owner of Mitch Mining Co. Ltd as he neither directly or indirectly owns or benefits from the company.

38. The existing data on the online business registration portal in regards to Mitch Mining Co Ltd is therefore incorrect and misleading and ought to change to reflect the true position as to the ownership, directorship and secretary of the company. The petitioners counsel can make a formal administrative application to have the password and account details changed such that the rightful owners of the company can correct the data and access the online account for future company filings.

***d) Resolution and land sale agreement in respect to Company land.***

39. An extra ordinary resolution was filed and registered on 20<sup>th</sup> December 2023 selling off the company's land comprised in Freehold register, volume HQT371 Folio 19, Singo County, Mubende District measuring 412.6090 Hectares to the first respondent, Baryamujura Moses Matsiko and Ssenkusu Edward. Consequently, an agreement of sale was executed on the 22<sup>nd</sup> day of November 2023 disposing off this land. For reasons indicated in part a of this decision, this resolution constitutes an illegal endorsement. The absence of a notice, minutes and attendance record to confirm that the second petitioner signed the resolution authorizing the sale of this land convincingly supports the assertion that his signature was fabricated and that he never signed the resolution. The resolution must therefore be expunged from the company register.

**What remedies are available to the parties?**

40. Regulation 8 (1) of the Companies (Powers of the Registrar) Regulations SI No. 71 of 2016 gives powers to the Registrar of Companies to rectify and update the register to ensure that it is accurate. Regulation 8 (2) goes further to state that the registrar may expunge from the register, any information or document included in the register which;

***a) Is misleading***

- b) *Is inaccurate*
- c) *Is issued in error*
- d) *Contains an entry or endorsement made in error*
- e) *Contains an illegal endorsement*
- f) *Is illegally or wrongfully obtained; or*
- g) *Which a court has ordered the registrar to expunge from the register*

41. ***Regulation 8 (1) of the Companies (Powers of the Registrar) Regulations 2016*** cited above provides that the registrar may rectify and update the register to ensure that the register is accurate. In light of the findings and resolutions in this case discussed above, pursuant to ***Regulation 32 of the Companies (Powers of the Registrar) Regulations, 2016***, I make the following orders;

1. The special resolution dated 15<sup>th</sup> November 2022 and registered on 06<sup>th</sup> December 2022 which transfers all the first petitioners 75 shares to the first respondent and provides for amendment of the company's memorandum and articles of association be expunged.
2. Transfer of shares instrument registered on 06<sup>th</sup> December 2022 transferring the first petitioners 75 shares to the first respondent together with the share valuation certificate be expunged.
3. Amended memorandum and articles of association registered on 06<sup>th</sup> December 2022, altering the share subscription to reflect Katende Bob Mitchel 75 shares and Benon Rwabukuru 25 shares be expunged.
4. The ordinary resolution registered on 06<sup>th</sup> December 2022 removing the first petitioner as director/secretary and appointing the first respondent as director/secretary be expunged.
5. The form 20 registered on 06<sup>th</sup> December 2022 altering the directorship of the company be expunged.

6. The extra ordinary resolution filed and registered on 20<sup>th</sup> December 2023 selling off the company's land comprised in Freehold register, volume HQT371 Folio 19, Singo County, Mubende District measuring 412.6090 Hectares to the first respondent, Baryamujura Moses Matsiko and Ssenkusu Edward be expunged.
7. I make no order as to costs.

*I so order.*

*Given under my hand, this \_\_\_\_\_ day of \_\_\_\_\_ 2025.*

---

*DANIEL NASASIRA*

*Ass. Registrar of Companies*