



**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
APPLICATION CAUSE NO. 45582 OF 2025**

**IN THE MATTER OF KICHEMBE BROTHERS CO LIMITED
JOY TINDIWEGI:.....APPLICANT
VERSUS**

- 1. JULIA TIGEITA MUNUBI
2. HARRIET NYANJURA MUNUBI:.....RESPONDENTS**

RULING

Before: Daniel Nasasira – Assistant Registrar of Companies

A. Representation

1. *Counsel Asasira Ingrid from M/S Ngaruye Ruhindi, Spencer and Co. Advocates represented the applicant while Counsel Rubeizi Jacob and Muhereza Wilbert from Owesigire, Muhereza & Co Advocates represented the respondents.*

B. Background and Petitioners case

2. The Applicant filed this Application seeking various orders including rectification of the register of Kihembe Brothers Co. Limited by expunging the resolutions filed on the 08th day of July 2024, 17th day of December 2024 and all company decisions and transactions made in the absence of the Applicant.
3. The Applicant, Joy Tindiwegi, is a registered shareholder and director of Kihembe Brothers Company Limited, alongside Julia Tigeita Munubi and Harriet Nyanjura Munubi.

4. The shareholding structure is as follows: Joy Tindiwegi 40%, Julia Tigeita Munubi 20%, Harriet Nyanjura Munubi 40%.
5. The Applicant contends that on multiple occasions, Julia Tigeita Munubi and Harriet Nyanjura Munubi convened board meetings and passed resolutions without notifying or involving her. Specifically;
6. On 12th April 2024, they held a board meeting to change company bank signatories, removing Musinguzi Laban and installing Julia Tigeita Munubi, without notifying the Applicant.
7. On 8th July 2024, they passed a special resolution granting a Power of Attorney to Byabashaija Jimmy to negotiate with Nile Breweries Ltd, without the Applicant's knowledge.
8. On 17th December 2024, another board meeting was held without the Applicant's notice, in which the Respondents appointed themselves as sole signatories to the company's Stanbic Bank Account (No. 9030011830888), effectively excluding the Applicant from financial and managerial control.
9. The Applicant alleges unauthorized withdrawals and alleged Criminal Conduct. The respondents proceeded to withdraw UGX 300,000,000 from the company's bank account in April 2024, and subsequently UGX 110,000,000 on 17th December 2024, both without the Applicant's knowledge or consent. This led to the initiation of criminal proceedings for theft, forgery, and uttering false documents, with police references provided in evidence.
10. The Applicant contends that her statutory rights as a shareholder and director under Sections 136 and 137 of the Companies Act were violated. These sections mandate at least twenty-one (21) days' notice in writing for company meetings and require service of such notices on all company members.
11. The Applicant contends that the Respondents' actions amount to mismanagement and manipulation of company processes to disenfranchise her, misleading stakeholders and creditors about the company's financial

standing. These acts are claimed to be ultra vires and a potential abuse of the company registry.

12. Upon learning of all the above illegalities, the Applicant through her lawyer Ngaruye Ruhindi, Spencer & Co. Advocates filed this application to the Registrar of Companies seeking rectification of the company register to expunge all resolutions passed without her participation on 12th April 2024, 8th July 2024, and 17th December 2024, and others filed solely by the Respondents, inspection of the company's financial and statutory books, invalidation of the Power of Attorney granted to Byabashaija Jimmy, legal enforcement to ensure future compliance with the Companies Act and costs of these proceedings.
13. The Applicant through her advocates Ngaruye Ruhindi, Spencer & Co. 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, submissions accompanied by documentary evidence, including: Certificate of incorporation, board and special resolutions were filed, Power of Attorney instrument, Bank account information. Summons were issued pursuant Regulation 28 (1) of the *Companies (Powers of the Registrar) Regulations SI No. 71 of 2016*.

C. Respondents Case

14. In response to the Application, the Respondents filed a Statutory Declaration sworn by Harriet Nyanjura Munubi in reply to a complaint lodged by Joy Tindiwegi regarding the management and conduct of affairs of Kihembe Brothers Co. Ltd.
15. The dispute according to the Respondent's Counsel revolved around the validity of specific company resolutions, appointment of signatories and an attorney, and allegations of financial mismanagement and embezzlement.
16. The Respondent's Counsel argued that the Applicant, Joy Tindiwegi, originally challenged only three specific resolutions made by the company's Board of

Directors and the Registrar of Companies in a ruling on a Preliminary Point of Law directed the parties to confine their submissions strictly to these resolutions without introducing new issues or evidence not already pleaded. Despite this directive, the Respondent contends that the Applicant's Counsel introduced new resolutions not attached to the original complaint, violating the rules of adversarial pleading and potentially ambushing the Respondent.

17. The Respondents contend that the document dated the 8th day of July 2024 is not a resolution but a Power of Attorney appointing Byabashaija Jimmy.
18. The Respondents argued that this Power of Attorney was executed by two directors, in line with Articles 28 and Article 33 of the Articles of Association, which provides that two directors form sufficient quorum to appoint Attorneys for company matters. The Respondent Counsel submitted that the decision to appoint Byabashaija Jimmy as an attorney was an administrative one, not requiring a twenty-one (21) day notice or a Board meeting. The act was done within the ordinary course of business and did not prejudice the Applicant in any way.
19. The Respondents argue that the resolution dated 12th April 2024, replaced Musinguzi Laban (Applicant's son) with Julian Tigeita Munubi as a bank signatory, alongside Harriet Nyanjura Munubi both of whom are shareholders and directors of the company.
20. The Respondents assert that Musinguzi Laban is neither a shareholder nor a director, his removal was necessitated by allegations of embezzlement and mismanagement. The Applicant was informed and is aware of the decision, which was made by two directors acting with quorum. The Respondent's argue that the resolution was in the best interest of the company.
21. The Respondent's contend that the resolution dated 17th December 2024 changed the signatory mandate of the company. This resolution replaced previous signatories Kabarebe Robert, Ntegyereize Elly, and Nyamirere Adrine

who are not directors or shareholders with the two current directors Tigeita Munubi and Harriet Nyanjura.

22. The Respondent's counsel submitted that the Applicant's desire to reinstate non-directors as signatories to the Company bank account lacks merit and the Respondents argue this was a management decision requiring no extraordinary meeting or a twenty-one (21) day notice.
23. The Respondents counsel further averred that the Applicants' reliance on *Ms Fang Min vs Hui Mining Ltd* is misplaced, as it dealt with general meetings and lack of quorum, not Board-level resolutions taken with sufficient quorum.
24. The Respondents counsel contended that the statutory declaration sworn by Harriet Nyanjura Munubi the first Respondent, outlines serious allegations against the Applicant and her children such as financial mismanagement and embezzlement. Musinguzi Laban and Tukahirwa Betty, children of the applicant, allegedly mismanaged company funds using a parallel entity named Jolabet Investments Ltd, in which the Applicant is a shareholder.
25. The Respondents contended that a forensic audit by JB Musisi & Associates revealed a loss of UGX 18,849,019,486 between 2016 to 2024 attributed to a fraudulent scheme, Betty Tukahirwa allegedly diverted UGX 28,778,038,282 into her personal account and Joy Tindiwegi allegedly took UGX 200,000,000 from stock sales into her personal account, falsely claiming it as her share.
26. The Respondents argue that the Applicant's complaint is a diversionary tactic to derail civil suit proceedings filed by the Company in the High Court in Bushenyi and avoid accountability.

D. Schedules

27. When the matter came up for hearing on the 17th day of June 2025, I issued schedules as below;
 - a) Submissions from the Applicant / Complainant were to be filed and served by the 07th day of July 2025.

b) Submissions from the Respondent were to be filed and served by the 21st day of July 2025.

c) Submissions in Rejoinder were to be filed and served by the 25th day of July 2025.

I informed the parties that a ruling would be issued on notice.

E. Issues

28. There are only two issues for determination in this matter;

a) *Whether the applicant / complainant received sufficient notice before salient, company decisions were passed and resolutions extracted for registration?*

b) *What Remedies are available to the parties?*

F. Determination

a) *Whether the applicant / complainant received sufficient notice before salient, company decisions were passed and resolutions extracted for registration?*

29. The applicant/complainant in this matter is a member and director of Kihembe Brothers Company Limited with 400 shares. The two respondents in this matter are also shareholders/ directors with Julia Tigeita Munubi owning 200 shares and Harriet Nyanjura Munubi owning 400 shares. The main claim by the applicant arises from the failure by the respondents to invite her for several company meetings wherein resolutions were passed without notifying or involving her.

30. The Respondents counsel referred to Article 28 of the Articles of Association which stipulates that, '*the number of directors of the company shall not be less than two or more than five and until this provision is amended to provide otherwise, any two directors shall be sufficient to do anything required to be done by the directors.*' Counsel argued that two directors of the company from the reading of this Article were sufficient to do anything required to be done by the directors.

31. Counsel further referred to Article 33 of the Articles of Association that provides that, '*the directors may from time to time and at any time by power of*

attorney appoint any company, firm or person or body of persons whether nominated directly or indirectly by the directors to be the attorney or attorneys of the company for such purposes and with such powers, authorities and discretion (not exceeding those vested in or exercisable by the directors under these regulations) and for such period and subject to the conditions as they may think.' Counsel relied on this provision to argue that the two respondents as directors were authorised to appoint anyone as an Attorney of the Company and change bank signatories without necessarily notifying the Applicant. Counsel contended that the actions and resolutions passed by the two respondents in their capacity as directors of Kihembe Brothers Company Limited were aimed at facilitating the efficient operation of the company's daily activities. These measures were not designed to disadvantage the applicant but were, in fact, intended to promote the smooth and transparent management of the company.

32. Counsel for the Applicant/complainant on the other hand, maintained that issuance of sufficient notice, as a requirement of the law had to be issued to the Applicant as a member/director of the company. Counsel prayed for the expungement of several resolutions that were made by and signed by the Respondents without inviting the Applicant/complainant to these meetings or notifying her of the same. Counsel emphasized that the Respondents must consistently comply with the statutory provisions of the law in managing the Company's activities.

33. I carefully read and evaluated both arguments of Counsel and ably perused the Companies Act Cap 106, the Articles of Association of the Company and precedents on the requirement of notice before arriving at this decision. It is an established principle of Company law that sufficient notice must be provided to members of a company prior to the convening of a meeting. Section 136 (1) of the Companies Act Cap 106 provides that, *'any provision of a Company's articles shall be void in so far as it provides for the calling of a meeting of the company other than an adjourned meeting by a shorter notice than twenty-one days.'* This notice

is required to be in writing by Section 136 (2). Section 136 (3) stipulates that, *'except where the articles of a company make other provision not being a provision declared to be void for the purpose of subsection (1), a meeting of the company other than an adjourned meeting may be called by a twenty-one days' notice in writing.'* Section 137 (a) provides that, *'notice of the meeting of a company shall be served on every member of the company in the manner in which notices are required to be served by Table A in Schedule 2 to the Act...'* Article 49 of the Company's Articles of Association provides for the mode of service of a notice to state verbatim that, *'a notice may be given by the company to any member either personally or by sending it by post to him or his registered address, and/or if he has no registered address to his or her last known address, if any, supplied by him or her to the company for the giving of notice to him. Where a notice is sent by post, service of the notice shall be deemed to have been effective if the notice is posted.'*

34. What is clear in this case, is that the applicant/complainant was not issued any notice before the contested resolutions were signed and registered. The Respondent's neither disputed this in their submissions nor did they avail any evidence to show that the applicant/complainant was aware or notified of these resolutions that were passed discreetly by the two Respondents without notifying her. Justice David Wangutusi in *Fang Min V Uganda Hui Neng Mining Limited and 5 Others HCCS No. 318 of 2016* held that, *'resolutions passed by people devoid of authority to do so and meetings held without notifying the relevant members are null and void. Since those meetings are null and void, they render the outcome worthless.'* It is important to highlight that several resolutions were passed and signed by the two Respondents. Some of these resolutions were members resolutions while the majority were board resolutions. Concerning the members resolutions, the special resolution registered on April 18th, 2024, which appointed forensic auditors to conduct an audit of the company, has been rendered moot by conclusion of the same by the time this suit was filed. The suspension of the General Manager Musinguzi Laban and

Assistant Manager Betty Bibaho Tukahirwa is currently a point of contention and is also subject to civil proceedings at the High Court in Bushenyi. Expunging this resolution has a bearing on the Civil Suit filed in the High Court in Bushenyi and for that reason shall not be expunged. This does not in any manner excuse the failure to issue notices to the Applicant as a member of the company. It is strongly recommended that the Company serve the required notices for future meetings of this kind.

35. In respect to the Board resolutions, it is key to highlight that proceedings of directors involve the day to day running of the company and should be differentiated from a members meeting. This company under Article 1 of its Articles of Association adopted Table A of the Companies Act and under Regulation 98 (1), the table provides that, *'the directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.'* Article 99 of Table A provides that, *'the quorum necessary for the transaction of the business of the directors may be fixed by the directors, and if not fixed the quorum is two.'* Article 106 stipulates that, *'a resolution in writing, signed by all directors for the time being entitled to receive notice of a meeting of the directors, is valid and effectual as if it had been passed at a meeting of the directors duly convened and held.'* What is key to state here is that, it is crucial that all directors of the Company are duly aware and have been notified of any proceedings touching the operations of the company. Article 106 of Table A emphasizes that a board resolution is valid and effectual even when the directors did not necessarily meet or receive notice inviting them for a meeting only if it is signed by all directors. In this case, the Applicant did not sign the Board resolutions and it appears that the Applicant was also not aware of the meetings that passed the several board resolutions that appear to have been passed covertly to the exclusion of the Applicant.
36. The Respondent Counsel further argued that some of the resolutions passed were against the biological children of the Applicant / Complainant and

therefore she was not expected to agree with the said resolutions even if she had been notified. Counsel for the Applicant, conversely, contended that the claims regarding the Respondents initiating a Civil Suit against the Applicant's children for mismanagement of the Company's resources should not serve as a valid justification for failing to inform the Complainant about the Company meetings. The assertion that her children misappropriated company funds, as alleged, does not provide the Respondents with the latitude to disregard the statutory obligation to issue notices to the Applicant for participation in Company meetings and decisions.

37. Counsel for the Applicants asserted that it was both improper and unlawful for the Respondents to execute multiple resolutions without the knowledge of the Applicants, who held the status of a fellow business partner, member, and director of the company. In any event, Counsel contended that the assertions made by the respondents regarding her children, who were employees of the Company, are merely allegations. Furthermore, her children have not been found guilty by any competent Court of embezzling Company funds as claimed.
38. I listened and thoroughly evaluated both arguments of Counsel. The rationale for not issuing notices, based on the assumption that the Applicant/Complainant would not concur with the resolutions submitted and endorsed by the two respondents, is conjectural, improper, and in violation of the Companies Act Cap 106 and Article 49 of the Company's Articles of Association referenced earlier in this decision.
39. A member or director is entitled to engage in the decision-making process of a company, and the legal obligation for notice serves as a safeguard to guarantee that members and directors are fully informed of all acts and resolutions undertaken by the company. Had the Applicant/Complainant been properly informed of the proposed decisions/resolutions to be taken by the Company and subsequently voted against them or declined to attend a meeting or sign a

resolution after receiving notice, the outcome in this matter would have differed. That is the law and the supremacy of the Company's Articles of Association was stated in *Noble Builders (Uganda) Limited v Balwinder Kaur Sandhu Civil appeal no.70 of 2009 pg. 19* relying on Kato, JA, in *Civil Appeal No.41 of 2001: Noble Builders (U) Ltd and Raghbir Singh Sandhu Vs Jaspal.S. Sanhhu*, where the learned justice noted that the Articles of Association were the supreme law when determining company affairs. This precedent demonstrates the supremacy of a Company's Articles of Association in crucial company dealings and if the requirement for notice was provided for under Article 49 of the Company's Articles of Association, it goes without saying that the same could not be undermined by the two Respondent's. They ought to have notified the Applicant as the decisions that were being passed were crucial company decisions and it was irrelevant whether they thought that the applicant would not agree to what they were proposing.

b) What remedies are available to the parties?

40. The applicant made several prayers including;

- a) Production of all books of the company for inspection.*
- b) Rectification of the register of Kihembe Brothers Company Ltd by expunging from the record the resolutions filed on 08th July 2024, 17th December 2024 and all other company resolutions, transactions and other decisions that were made without giving notice to and without involving and in absence of the applicant/complainant.*
- c) Declaring as invalid all such decisions, resolutions and transactions and*
- d) Initiating and taking any further legal action if necessary to ensure compliance with the provisions of the law.*

41. It is trite law that remedies can only be issued in respect to the jurisdictional limits of a particular forum. The Registrar of Companies statutory jurisdiction relates to the exercise of two distinct powers, firstly is the power to hear and determine complaints by an oppressed member under Section 243 of the Companies Act Cap 106, and secondly is the power to rectify a company's

register and expunge documents that constitute an error, are misleading, inaccurate, issued in error, contain entries or endorsements made in error, contain an illegal endorsement, are illegally or wrongfully obtained or which a court has ordered the Registrar to expunge from the register all pursuant to Regulation 8 of the Companies (Powers of the Registrar) Regulations SI No. 71 of 2016. The applicant did not commence her complaint as a petition for member oppression under Section 243 of the Companies Act Cap 106. This implies that the remedies applicable in this case must pertain to the second jurisdictional authority of the Registrar of Companies, specifically the rectification of the register. Consequently, all other prayers made that fall beyond the jurisdiction of the Registrar of Companies cannot be granted.

42. The Board resolution registered on 24th January 2025, initiating legal proceedings at the High Court in Bushenyi cannot be expunged as an order of the Registrar of Companies cannot defeat court proceedings as that could amount to Contempt of court concerns. I perceive no harm in allowing the claimants in the said suit to seek legal redress and Court will determine whether the claims sought therein disclose any merits. Expunging a resolution that commences a suit will have the effect of altering the status quo in respect to the Civil Suit already fixed for hearing at the High Court of Bushenyi. Justice Stephen Musota in *Geraldine Ssali Busuulwa Vs National Social Security Fund and 2 Others* HCT-00-CV-MA-0116-2016 stated verbatim at page 10 of the decision that, *'I will however add that a party who takes deliberate steps to undermine the court process by deliberately altering the status quo when he/she is aware of an ongoing court process and is participating therein and is aware of the prayers being sought in the proceedings, should be held in contempt of court.'* The primary purpose of contempt power is to preserve the effectiveness and sustenance of the power of courts. (See *People Vs Kurz* 35 Mich App. 643, 656 (1971)). The Applicant/complainant is free to raise the issue regarding this Board resolution in the High Court and the Court will make a pronouncement on it and the same can be expunged

pursuant to Regulation 8 (2) (g) which provides that *‘the registrar may expunge from the register, any information or document included in the register which a court has ordered the registrar to expunge from the register.*

43. Additionally, regarding the prayer for rectification of the register, the resolution to remove Bibaho Jonan as an accountant/employee of the Company has already been superseded by events. The three directors/members may convene a meeting to deliberate and vote on the feasibility of reinstating him. The same applies to the Power of Attorney appointing Byabashaija Jimmy as an Attorney for purposes of negotiating business deals with Nile Breweries Ltd registered on 08th July 2024.
44. I find that the resolutions modifying the bank signing mandate to include solely the two Respondents, as principal signatories, without the involvement or notification of the Applicant, were exclusionary towards the Applicant, who is also a shareholder and director in the Company.
45. In light of the findings in this case, discussed above, pursuant to ***Regulation 8 and 32 of the Companies (Powers of the Registrar) Regulations, 2016***, I make the following orders;
1. *The company resolution registered on 17th day of December 2024 making Tigeita Julian Munubi and Nyanjura Harriet principal signatories to the Company Account in Stanbic Bank Uganda Ltd to the exclusion of the Applicant be expunged for having been wrongfully obtained without the Applicant’s knowledge.*
 2. *The company resolution registered on 18th day of December 2024 making Tigeita Julian Munubi and Nyanjura Harriet principal signatories to the Company Account in Stanbic Bank Uganda Ltd to the exclusion of the Applicant be expunged for having been wrongfully obtained without the Applicant’s knowledge.*
 3. *That the Company passes a resolution adding the Applicant and the two Respondents, who are the legitimate members/directors of the Company as joint signatories to the Company Bank Account in Stanbic Bank Uganda Ltd within thirty (30) days from the date of delivery of this ruling.*

4. *I make no order as to costs*

I so order.

Given under my hand, this 16th day of September 2025.

DANIEL NASASIRA

Ass. Registrar of Companies