



THE REPUBLIC OF UGANDA
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 MBARARA MAKHANSINGH MARKET LANDLORDS
ASSOCIATION LTD
PETITION NO. 95944 OF 2025
BRN: 80010003095944

1. KAGINA ABBEY
2. TUSASIRWE ZUBEDA
3. KOMUJUNI MARY
4. MPIRIRWE JONAH
5. NABUKENYA FATUMA
6. BIRUNGI SARAH
7. RUGUNDANA ABASI
8. KABAIJE FELIX
9. TUSHABE J B
10. BIRUNGI FLORENCE
11. AMINAH NATALUNGI
12. KWIZERA DENIS
13. BEINGANA PIUS
14. TUMWINE JOTHAM BARUGAHARE.....PETITIONERS

VERSUS

1. MUKUNDANE THOMAS
2. MUSIIME KASIMOONI BENON
3. ASIIMWE EMMANUEL
4. GANAFU WILLIAM
5. SSIRIMBA FRED
6. MBARARA MAKHANSINGH MARKET LANDLORDS ASSOCIATION LTD
.....RESPONDENTS

RULING

Before: Daniel Nasasira - Assistant Registrar of Companies

A. Representation.

1. *Manigaruhanga & Co. Advocates represented the Petitioners, whereas Ngaruye Ruhindi, Spencer & Co. Advocates represented the Respondents.*

B. Introduction and Background.

2. The Petitioners are adults of sound mind and are Members of the Sixth Respondent. The First to fifth Respondents are also adults of sound mind and residents of Makhansingh street – Mbarara city.
3. The Sixth Respondent was incorporated as a company limited by guarantee on 19th day of October 2007 under registration number vide 80010003095944. (hereinafter referred to as “the Company”).
4. The Petitioners filed this Petition on 31st day of July 2025 against the Respondents seeking orders for the rectification of the Company’s register, on the basis that the Respondents, acting without the Petitioners’ knowledge and consent, allegedly orchestrated a series of documents illegally and irregularly.
5. The Respondents, on the other hand, contended that the Petition is vexatious and frivolous, and that all actions taken were done in good faith and in the best interests of the Company, thereby not warranting any alteration to the Company’s register.

C. Petitioners’ Case

6. The Petitioners, through the Petition filed and supporting Statutory Declaration of Tumwine Jotham Barugahare, the fourteenth Petitioner, stated that the Company was incorporated under the laws of Uganda as a Company limited by guarantee on 19th October 2007, with a membership of over 387 (three hundred eighty seven) members.
7. The Petitioners contended that majority of the members of the Sixth Respondent Company are aggrieved by the illegal conduct of the first, second and third Respondents who are currently holding the Sixth Respondent Company hostage.
8. The fourteenth Petitioner, under paragraph four of his statutory declaration, argued that on 17th May 2024, a purported special resolution was allegedly

passed by the members with the intention of updating data with the Uganda Registration Services Bureau (URSB) and later registered the same on 22nd May 2024.

9. It was contended that the said special resolution was neither preceded by a notice calling for the meeting nor a members meeting to pass the same and only 12 (twelve) members out of 387 (three hundred eighty seven) were identified with an excuse that the rest of the members lacked national identification documents/cards.
10. That the said resolution also was signed by the first, second and third Respondents who only recognized twelve (12) members instead of the known 387 true members of the Sixth Respondent Company.
11. The Petitioners argued that again on 22nd November 2024, the first to fifth Respondents purportedly passed an ordinary resolution and then registered it on 20th December 2024 appointing the first , second and third Respondents as directors and secretary of the sixth Respondent without the Petitioners consent and subsequently filed a form 20 detailing themselves as the duly appointed directors and Company Secretary.
12. The Petitioners averred that the said purported resolution and form 20 were signed by the same first, second and third Respondents who unceremoniously appointed themselves as directors and secretary without a duly convened company meeting, consent or approval of the majority of the members of the Sixth Respondent.
13. The fourteenth Petitioner, contended under paragraph nine of his statutory declaration, that another special resolution was purportedly passed and registered on the 23rd December 2024 authorizing the shifting of tenants and starting the market re-development on the Company's land comprised in LRV 4333, Folio 24, Plot 32-40, Victor Bwana Road Mbarara City, without ever calling or holding a meeting with the other members of the Company. The said resolution was signed by the first, second and third Respondents.

14. The Petitioners argued that on 03rd December 2024 and 24th June 2025, they wrote two letters to the first, second and third Respondents who had illegally constituted themselves into a Board of Directors for the Company, complaining about the demolition of the current market, construction of the new market, demanding a list of the Company properties, regularization of membership and the need to hold an extra-ordinary meeting to discuss the same issues.
15. The fourteenth Petitioner, stated under paragraph eleven of his statutory declaration, that him and the 13 other Petitioners are dissatisfied and aggrieved by the fraudulent actions, illegal decisions and changes in the management system of the Company orchestrated by the first, second and third Respondents from the 17th day of May 2024, which constitute a violation of the Companies Memorandum and Articles of Association, interests and rights of the Petitioners and other members of the Company.
16. The fourteenth Petitioner contended that he together with the other Petitioners issued a notice of intention to sue on the 21st day of July 2025 regarding the Respondents intention of holding a construction meeting on the 23rd July 2025 paving way for the demolition of the members' structures on the sixth Respondent's land and construction of the market.
17. The Petitioners argued that the first to fifth Respondents illegal actions disenfranchised the Petitioners and other members of their rights, privileges and participation in the management of the Sixth Respondent, appointed themselves as directors and secretary of the Sixth Respondent Company with the intention of using the Sixth Respondent's properties for self-enrichment.
18. The Petitioners made the following prayers;
 - a) *A declaration that the Special resolution dated 17th May 2024 and registered on 22nd May 2024 be declared illegal, null and void.*
 - b) *A declaration that the ordinary resolution and form 20 dated 22nd November 2024 and registered on 20th December 2024 is illegal, null and void.*

- c) *A declaration that the special resolution dated 14th December 2024 and registered on 23rd December 2024 be declared illegal, null and void.*
- d) *A declaration that the actions of the first to fifth Respondents were illegal and unfair.*
- e) *An order expunging the special resolutions, ordinary resolution and form 20 dated 17th May 2024, 22nd November 2024, 14th December 2024 and 22nd November 2024 off the register.*
- f) *An order that the first, second and third Respondents cease holding out as directors and secretary of the Sixth Respondent.*
- g) *An order directing all the members of the Sixth Respondent to hold a members' meeting to regularize membership, update data with the Registrar of Companies and new appointment of directors and secretary.*
- h) *An order halting or stopping the registration of any company resolutions or forms until the directed members' meeting is held.*
- i) *Costs of the petition be awarded to the Petitioners.*

D. Respondents' Case

19. The Respondents, through a Statutory Declaration deposited by Mukundane Thomas, the first Respondent, argued that the Petitioners assertions' and allegations were baseless, unfounded and averred that the same be disregarded as the Respondents are genuinely running the affairs of the Sixth Respondent as the duly appointed Board of Directors.
20. The first Respondent argued under paragraph 7 (i) of his Statutory Declaration that the Uganda Registration Services Bureau issued a directive that all Companies were to update data on the new Online Business Registration System (OBRS) with particulars of their respective members. The Respondent averred that the Company had a short period of time to complete this update.
21. That in a bid to comply with the said directive, the Sixth Respondent through its Board members called for a meeting which was held on 27th February 2024 at All Saints Church Mbarara Lower Basement Hall and among the resolutions

was that a few members whose particulars could be obtained be forwarded to URSB for updating the company register and the rest of the members be added back when their national identification cards were availed.

22. The first Respondent argued under paragraph 7 (iii) of his Statutory Declaration that the meeting was held after thorough notices had been issued, announcements put on radio, SMS messages sent to members and the notices pinned on the Notice Board and open places in the market. The first Respondent attached Copies of the notice calling for the meeting, venue payment receipt and radio announcement receipts which were issued by the cashier vision group after the announcements were aired on Radio West Mbarara.
23. The first Respondent averred under paragraph 7 (iv) of his Statutory Declaration that following the directive to update of the Company register by URSB, the Company embarked on the process and requested all members to avail their national identification cards as these were required to complete the process.
24. That over 200 members of the Sixth Respondent submitted their National Identification Cards including the Petitioners and the process of updating the Company details on the Online Business Registration System (OBRS) is still ongoing and the company update application on OBRS is still in draft. An email showing details of the Application was attached as annexure C.
25. The first Respondent argued under paragraph 7 (vi) of his Statutory Declaration that it is not true that the resolution to update the register was passed on 17th May 2024. He argued that this was a typing error and that the actual date for passing the resolution was 27th February 2024 as per a copy of meeting minutes dated 27th February 2024.
26. The first Respondent also argued under paragraph 7 (vii) of his Statutory Declaration that it was not true that the Respondents or the twelve members that were captured during the initial data update process as per the resolution

were the only recognized members of the Sixth Respondent, but rather, that all 492 (four hundred ninety two) members as per the company register book kept with the Company Secretary were indeed the known and recognized members of the Sixth Respondent company. The first Respondent contended that the rest of the Petitioners who had not submitted their national identification cards were free to submit their particulars and that they would be entered in the system as members.

27. The first Respondent argued under paragraph 8 of his statutory declaration that it was not true that the Respondents had appointed themselves as Directors of the sixth Respondent Company. He averred that they were duly elected into leadership as the executive committee of the sixth Respondent on 28th March 2023. That they were duly elected by the members of the Sixth Respondent company in a duly convened Annual General Meeting in line with the provisions of the Amended Memorandum and Articles of Association. It was further argued that the said meeting was duly called and the members informed by Radio announcements, displaying the notices around the open places of the market, the Sixth Respondent Notice Board and by bulk SMS. The first Respondent attached copies of the notice of 28th March 2023, venue receipt and vision group receipts as annexure C2 to his Statutory Declaration.
28. The first Respondent contended under paragraph 8 (iii) of his Statutory Declaration that the executive committee appointed in 2023 was confirmed as the Board of Directors on 22nd November 2024 in an extra ordinary general meeting of the Sixth Respondent and the meeting was duly convened after notices had been published, displayed in open spaces of the market and members informed of the meeting by bulk SMS. He attached a copy of the notice as annexure D.
29. The first Respondent averred under paragraph 8 (iv) of his Statutory Declaration that it is not true that the first to fifth Respondents appointed themselves as Directors of the Sixth Respondent but rather they were duly

appointed by the members of the Sixth Respondent Company as per the provisions of the Amended Memorandum and Articles of Association of the Sixth Respondent and the Petitioners assertions are an afterthought and should be disregarded.

30. The first Respondent contended under paragraph 8 (v) of his Statutory Declaration that the first, second and third Respondents signed a resolution and form 20 as directors and secretary in fulfillment of their mandate by virtue of their appointment as Directors and Secretary respectively.
31. The first Respondent deposed under paragraph 9 of his Statutory Declaration that the move to redevelop the market was beneficial to all the members of the Sixth Respondent company and was passed in duly convened extra ordinary meetings of the Sixth Respondent company, some of which the Petitioners attended in person.
32. The first Respondent added that the decision to redevelop the market was a decision reached after the local government of Mbarara city had condemned the structures as inhabitable and it was in the best interest of the members of the Sixth Respondent that the market be redeveloped to a modern market.
33. The first Respondent argued that the Petitioners were motivated by their own selfish motives as they intended to divert the funds meant for the market redevelopment, which the Respondents objected to and they consequently filed this Petition to frustrate the process of redeveloping the market.
34. The first Respondent concluded by stating that it is in the interest of justice that the petition be dismissed with costs for the benefit of the rest of the members of the Sixth Respondent Company.

E. Rejoinder

35. The fourteenth Petitioner, Tumwine Jonathan Barugahare, submitted a Statutory Declaration in rejoinder, asserting that the Petitioners were not addressing the election of a chairperson, secretary, and treasurer of a non-existent legal entity. Instead, the Petitioners concern was in regards to

the unlawful removal of the initial directors and secretary, as well as the irregular appointment of the first, second, and third Respondents as directors and secretary of the Sixth Respondent Company. Furthermore, the purported notices, minutes, and attendance lists marked as annexures 'B', 'C', and 'D' to the Statutory Declaration in reply were stated to be immaterial and unrelated to the Sixth Respondent company, as well as to the meeting and resolution concerning the removal of the initial directors and secretary and the irregular appointment of the first, second, and third Respondents as directors and secretary of the Sixth Respondent Company.

36. In rejoinder to paragraphs 7 and 9 of the Respondents' Statutory Declaration, it was asserted that the notice and minutes of the alleged meeting of 17th May 2024, marked as annexures 'E', 'F', and 'G', were not connected to the resolution dated 17th May 2024 and registered on 17th May 2025 concerning the data update with URSB. Instead, they pertained to issues related to a nonexistent legal entity, rather than the Sixth Respondent Company.
37. In further rejoinder to paragraphs 7 and 9, it was argued that the purported meeting described in annexures 'E', 'F', and 'G', was in respect to a non-existent legal entity and therefore all discussions including the proposal to register Mbarara Makhansingh Market Landlords company limited by shares was not representative of the Sixth Respondent Company.
38. In rejoinder to paragraphs 10 and 11, it was asserted that the alleged meeting on 22nd November 2024 concerning the appointment of the first, second, and third respondents as directors and secretary, as referenced in annexures 'I', 'J', and 'K', did not constitute a meeting of the Sixth Respondent. Instead, it pertained to a distinct, non-existent legal entity led by illegally appointed chairperson, secretary, and treasurer, with the petitioners not being participants in the meeting.
39. In further rejoinder to paragraphs 10 and 11 of the Statutory Declaration in reply, it was asserted that the attached notices, minutes, and attendance lists

did not indicate that the meeting pertained to the Sixth Respondent Company, nor did they confirm that the attendees were representatives of the Sixth Respondent Company. Consequently, any business conducted during this meeting concerning the appointment of the first, second, and third respondents as directors and secretary of the sixth respondent was unlawful and contravened Article 10 of the Sixth Respondent's Articles of Association and the Companies Act Cap 106.

40. In rejoinder to paragraph 12 of the Statutory Declaration in Reply, it was argued that the extra ordinary meeting convened on 14th November 2024 by the first, second and third respondents was not a meeting of the sixth respondent but rather of a non-existing legal entity called, 'MMLA,' an association headed by the first, second and third respondents as chairperson, secretary and treasurer respectively.
41. In further rejoinder to paragraph 12 of the Statutory Declaration in Reply, it was argued that the resolution dated 14th November 2024, registered on 23rd December 2024, which is claimed to be from the sixth respondent company following the purported meeting of 14th November 2024, is deemed illegal and in violation of Article 10 of the Articles of Association of the Sixth Respondent.
42. It was argued, in rejoinder to paragraph 13 of the statutory declaration in reply, that the petitioners have never been involved in any successful mediation with the Respondents handled by the alleged stakeholders, which is the reason they filed the current Petition before the Registrar of Companies.
43. In further rejoinder to paragraph 13 of the Statutory Declaration in reply, it was contended that the alleged meetings took place after filing of this Petition and tackled issues regarding the Sixth Respondents land, shifting of tenants and redevelopment of the market, and not issues related to the illegal meetings and unlawful removal of the initial directors and secretary and appointments of the

first, second and third respondents as directors and secretary of the Sixth Respondent.

44. In rejoinder to paragraph 14 of the Statutory Declaration in Reply, it was argued that the alleged extra ordinary meeting dated 23rd July 2025 was not a meeting of the Sixth Respondent Company but rather of a non existing legal entity and that even if it was meant for the sixth respondent, it was illegally convened in total violation of Article 10 of the Articles of Association of the Sixth Respondent.
45. In rejoinder to paragraphs 15 to 21 of the Statutory Declaration in Reply, it was maintained that the petition has merits, all annexures attached to the petition and the Statutory Declaration were argued not to be defective and the Respondents would be put to strict proof thereof.
46. The fourteenth Petitioner argued that all the notices, minutes and attendance records of the purported meetings dated 28th March 2023, 17th May 2024, 14th November 2024, 22nd November 2024 and, 23rd July 2025 respectively were not notices, minutes and attendance records of the meetings of the Sixth Respondent Company but rather of a non existing legal entity called, 'MMLA,' an association headed by the first, second and third respondents as chairperson, secretary and treasurer respectively.
47. Additionally, he deposed that even if the said notices, minutes and attendance records of the purported meetings were to be treated as of those of the Sixth Respondent, they are illegal and in total violation of Article 10 of the Articles of Association of the sixth respondent and the Companies Act Cap 106.
48. The deponent maintained that all resolutions arising from the purported meetings of the association were illegally signed disguised as those of the Sixth Respondent and illegally registered by the Registrar of Companies.

F. Schedules

49. The parties having filed all the relevant pleadings including their Statutory Declarations pursuant to Section 286 of the Companies Act Cap 106, I instructed both counsel to present written submissions and issued schedules as follows;

- a) *A joint scheduling memorandum was to be filed and served by the 30th day of January 2026.*
- b) *Submissions from the Petitioner were to be filed and served by 06th day of February 2026.*
- c) *Submissions from the Respondents were to be filed and served by the 20th February 2026,*
- d) *A rejoinder, if any, was to be filed and served by the 27th February 2026.*

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

G. Issues

51. While the parties framed six issues for determination in this matter, all parties having presented their cases, I find that three issues are sufficient to address the concerns in this matter.

- a) *Whether the impugned documents were validly passed?*
- b) *Whether the affairs of the sixth respondent are being run in a manner that is oppressive, prejudicial, unfair and illegal to the Petitioners?*
- c) *What remedies are available to the parties?*

H. Determination

a. Whether the impugned documents were validly passed?

52. The Petitioners filed this matter, alleging that the Respondents had irregularly appointed themselves as directors and company secretary and illegally passed a resolution authorizing the shifting of tenants in the Sixth Respondents Company market, and initiated the market re-development process on the Company's land, which is located in LRV 4333, Folio 24, Plot 32-40, Victor Bwana Road Mbarara City. The Petitioners also contended that the respondents had updated the company's data and indicated only twelve subscribers, despite

the fact that the company had over 387 known subscribers/members. The Petitioners contended that the first to fifth Respondents' illegal actions deprived the Petitioners and other members of their rights, privileges, and participation in the management of the Sixth Respondent Company. They also appointed themselves as directors and secretary of the Sixth Respondent Company with the intention of using the Sixth Respondent's properties for self-enrichment.

53. Conversely, the Respondents contended that the Petitioners' assertions and allegations were unfounded and baseless, and they averred that they should be disregarded, as the Respondents are legitimately managing the affairs of the Sixth Respondent as the duly appointed Board of Directors. The Respondents attached notices inviting the Petitioners to meetings, minutes of the meetings, and attendance records to substantiate their assertion that all decisions, including their appointment as the Board of Directors, the data validation exercise, and the relocation of tenants to redevelop the market, were made in a regular manner and in compliance with the law.

54. The resolutions in contention include the following;

- a) *The Special resolution dated 17th May 2024 and registered on 22nd May 2024 authorizing the company to proceed with the data update with only a section of the few members that had presented their national identification documents.*
- b) *The ordinary resolution and form 20 dated 22nd November 2024 and registered on 20th December 2024 appointing the first, second and third respondents as directors and removing the previous Board of Directors.*
- c) *The special resolution dated 14th December 2024 and registered on 23rd December 2024 authorizing the shifting of tenants and redevelopment of the sixth respondents company market premises.*

55. I will analyze each resolution to determine if it was appropriately passed and legally endorsed in accordance with the Company's Articles of Association and

the Companies Act Cap 106. I shall examine each of the presented arguments separately in the following sequence;

- i) *Data validation/ update process*
- ii) *Legitimacy of the first, second and third Respondents appointments as directors and Company secretary*
- iii) *Legitimacy of the Resolution authorizing the shifting of tenants and starting the market re-development on the Company's land comprised in LRV 4333, Folio 24, Plot 32-40, Victor Bwana Road Mbarara City*

a) Data validation/update process

56. Following the roll out of a new online digital system called the Online Business Registration System (OBRS), the Uganda Registration Services Bureau (URSB) embarked on the process of updating information of all entities registered before 09th 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, second and third Respondents consequently proceeded and filed a resolution updating the Sixth Respondent company's data on the OBRS system. The resolution provided as follows; *'that in compliance with the legal requirement to update the Company's data with URSB, the company proceeds with the data update process with only the following members: Mukundane Thomas, Musiime Benon Kasimooni, Asiimwe Emmanuel, Musinguzi Joshua, Gumisiriza Gadi, Natta Mary Nalongo, Ampuriire Justus, Rwabi-kwesiga Myres Amooti, Kashiija John Baptist, Kyarisiima Rosette, Ganaafa William, Nshemereirwe Martin, Nantale Beatrice, Nuwaga Freddie Bejuna and Kazibwe Benon Sayuuni whose identification documents can be traced.'* Clause two provided that, *'the rest of the members can be added back to the company after obtaining identification documents and after the data update.'*

57. Another resolution was filed on 09th July 2025 signed by the first, second and third respondents as members, which provided under clause one as follows, *'that updating of the members list with URSB will run continuously and concurrently*

with the construction of our market (149 members were in support and 1 member against)'

58. The first Respondent argued under paragraph 7 (ii) of the Statutory Declaration deposed that, *'in a bid to comply with the directive from URSB to update the company's data, the sixth respondent company through its Board members called for a meeting, which was held on 27th February 2024 at All Saints Church Mbarara Lower Basement Hall and among the resolutions was that a few members whose particulars could be obtained be forwarded to URSB for updating the company register and the rest of the members be added back when their particulars such as national identification cards have been obtained.'*
59. From the pleadings and submissions regarding this issue, it is evident that only a limited number of individuals were registered in the Online Business Registration System, as these individuals were the ones who had provided their National Identification Cards. It is a requirement that the National Identification number of a member be entered into the system for the member's data to be deemed captured. It is important to highlight that the rationale for the data update exercise aimed to facilitate the seamless transition of information from the traditional URSB company register to the fully online digital register. It was essential for the data captured in the system to accurately reflect the company's current status as recorded in the physical company file. The recording of data from only a limited number of individuals in the online system was indeed irregular; however, this was mitigated by the resolution indicating that the remaining members would subsequently have their information entered into the system upon submission of their National Identification Cards. Expunging this resolution would result in significant disruption especially given that the Company is currently uploading data for members who had not yet submitted their National Identification Cards. I find it more prudent to urge the Company to ensure that all members and

subscribers are registered in the system by a stipulated determined date as I shall indicate in the findings section of this decision.

60. The fourteenth Petitioner, under paragraph four of his statutory declaration, argued that on 17th May 2024, a purported special resolution was allegedly passed by the members with the intention of updating data with the Uganda Registration Services Bureau (URSB) and later registered the same on 22nd May 2024. It was contended that the said special resolution was neither preceded by a notice calling for the meeting nor a members meeting to pass the same and only 12 (twelve) members out of 387 (three hundred eighty seven) were identified with an excuse that the rest of the members lacked National Identification Documents/Cards. It was also argued that the said resolution was signed by the first, second and third Respondents who only recognized twelve (12) members instead of the known 387 true members of the sixth Respondent Company.
61. The Respondents, on the other hand, attached minutes signed by Musiime Benon as Company secretary and Mukundane Thomas as Chaiperson. The said minutes under minute EOGM/5/2/2024 indicated verbatim that, *'it was resolved that in compliance with the legal requirements of the company data update process with URSB, the company proceeds with few members who have ready national identity cards.'* The minutes continue to indicate that, *'it was resolved that the rest of the members can be added to the company data bases after obtaining identification documents...'* The motion for implementation of the above was moved by Mr. Mugume Bunanukye and seconded by Mr. Ssirimba Fred. The motion was put to a vote and was supported by 125 members against none.
62. It is clear that the Respondents do not contest the fact that all of the individuals who subscribed to the Company Memorandum and Articles of Association are members of the company. In point of fact, the purpose of the resolution was to make it explicitly clear that the decision to only capture a relatively small number of individuals was not intended to imply that the remaining

individuals were not members, but rather that they would be subsequently entered as members after they had presented their National Identification Cards. In the event that a member presents their National Identification Card and the Company does not take the initiative to file the requisite documents to include that member in the system, such a member may submit a formal application to the Registrar of Companies who shall formally adjudicate the matter and make a formal finding. In conclusion of this issue, I find that the data update was properly conducted and is an ongoing process, I therefore do not find it justifiable to expunge the Special resolution dated 17th May 2024 and registered on 22nd May 2024 authorizing the company to proceed with the data update with only a section of the members that had presented their National Identification Documents.

b) Legitimacy of the first, second and third Respondents appointments as directors and Company secretary

63. The Petitioners argued that on 22nd November 2024, the first to fifth Respondents purportedly passed an Ordinary Resolution appointing the first, second and third Respondents as directors and secretary of the sixth Respondent without the Petitioners consent and subsequently filed a form 20 detailing themselves as the duly appointed directors and Company Secretary.

64. The Petitioners averred that the said purported resolution and form 20 were signed by the same first, second and third Respondents who unceremoniously appointed themselves as directors and secretary without a duly convened company meeting, consent or approval of the majority of the members of the Sixth Respondent.

65. The first Respondent, on the other hand, argued under paragraph 8 of his Statutory Declaration that it was not true that the Respondents had appointed themselves as Directors of the Sixth Respondent Company. He averred that they were duly elected into leadership as the executive committee of the Sixth Respondent on 28th March 2023. Mr. Mukundane Thomas contended that, they

were duly elected by the members of the Sixth Respondent company in a duly convened Annual General Meeting in line with the provisions of the Amended Memorandum and Articles of Association and the said meeting was duly called and the members informed by Radio announcements, displaying the notices around the open places of the market and the Sixth Respondent Notice Board and by bulk SMS. The first Respondent attached copies of the notice of 28th March 2023, venue receipt and vision group receipts as annexure C2 to his Statutory Declaration.

66. The first Respondent contended under paragraph 8 (iii) of his Statutory Declaration that the executive committee appointed in 2023 was confirmed as the Board of Directors on 22nd November 2024 in an extra ordinary general meeting of the Sixth Respondent and the meeting was duly convened after notices had been published, displayed in open spaces of the market and members informed of the meeting by bulk SMS. He attached a copy of the notice as annexure D.

67. What is key here is to examine whether the Company followed the requisite steps under its Articles of Association for appointment of the disputed Board of Directors.

68. Article 9 of the Sixth Respondents Articles of Association provides that, *'the company shall be managed through the following governance structures, of the general assembly of members (general meeting), the Board, the secretariat, sub-committees and the management team.'* Article 10 continues to provide as follows;

1. 'The Company shall in each year hold a General meeting of all members as it's Annual General Meeting in addition to any other meeting in that year and shall specify the general meeting as such in the notice calling it, and not more than fifteen months shall elapse between the date of one Annual General Meeting of the company and that of the next, except that so long as the company holds its first Annual General Meeting within the next eighteen months of its incorporation, it needs not hold it in the year of its

incorporation or in the following year. The General meeting shall be held at such time and as the Board of Directors shall appoint.'

2.'All General meetings of the members of the Company other than the Annual General Meeting shall be called extra-ordinary General Meetings.'

3.'The Board of Directors may, whenever it thinks fit, convene an extra-ordinary General Meeting, and extra-ordinary General Meetings shall also be convened on such requisition, or in default, may be convened by such requisitionists, as provided by Section 132 of the Act. Any member of the Board of Directors or any two members of the Company may convene an extra-ordinary General meeting in the same manner as nearly as possible as that in which meetings may be convened by the Board of Directors.' Emphasis here is that any member of the Board of Directors or any two members of the Company could convene the extra-ordinary meeting.

69. One of the agenda items at this extra-ordinary General meeting was the appointment of a Board of Directors as stipulated for under Article 10.5 of the Sixth Respondents Articles of Association. The Respondents allege that they called for this meeting and a Board of Directors was consequently appointed by the members as provided for in the Articles of Association. The key elements to consider in this case is whether there was adequate notice provided to the members to attend the meeting and whether there was sufficient quorum as provided for in the Articles of Association.

70. Article 10.4.1 of the Articles of Association provides that, '*annual general meetings called for the passing of special resolutions shall be called by twenty one day's notice in writing as the least. The notice shall be exclusive of the day on which it is served or deemed to be served and the day for which it is given, and shall specify the place, the date and the hour of meeting and, in case of special business, the general nature of that business and shall be given, in a manner hereafter mentioned or such other manner, if any, as may be prescribed by the Company in a general meeting to such persons as are, under the Articles of Association, entitled to receive such notices*

from the Company.’ Article 10.4.2 continues to stipulate that, ‘a meeting of the Company shall notwithstanding that it is called by shorter notice than that specified in this Article be deemed to have been duly convened if it is so agreed by the General Meeting.’ Article 10.6.2 of the Articles of Association provides that, ‘no business shall be transacted at any General Meeting unless a quorum of members is present at the time when the meeting proceeds to business, except as herein otherwise provided 1/3 of members present in person shall be a quorum, provided that the general meeting may subsequently by ordinary resolution set a different quorum having regard to the total number of members.’

71. The Respondents attached a copy of a notice inviting members for a meeting dated 07th March 2023, the meeting in question according to the minutes occurred on 28th March 2023. One of the agenda items from the minutes attached was election of new office bearers. The notice in question fulfilled the twenty-one days requirement and was broadcasted on Radio West as per a receipt from Vision group dated 17th March 2023. Minutes were attached and under minute 9/AGM/2023 Mukundane Thomas was nominated for the position of Chairperson of the Sixth Respondent company by Canon Kaganzi John, when the name was put to a vote, it is stated in the minutes that he was unanimously supported by all members. Indeed, during the proceedings, all the members including a section of the Petitioners that attended recognized him as a Chairperson. It is also stated in the minutes that a one Mr. Kashaija John Baptist moved a motion noting that since the executive and the sub committees had done great work for the Association, he moved for their re-election for another term of 4 years. He was seconded by Ms Edra Kigombe. The returning officer put the motion to a vote and it was unanimously supported by all the members present.
72. Another notice was issued inviting members for a meeting on 22nd November 2024. The Respondents attached a list of over 285 phone contacts marked as annexure I to whom a notice was sent to via bulk SMS services to attend an

extra-ordinary meeting. The first Respondent stated in his Statutory Declaration that the meeting was duly convened after notices had been published, displayed in open spaces of the market and members informed of the meeting by bulk SMS.

73. One of the agenda items as noted from the minutes stated verbatim was, *'to give mandate to 3 Directors to run and manage the Association affairs.'* The Chairman according to minute 12/EOGM/11/2024, informed the members that there was urgent need to regularize new directors as per the Annual General Meeting held on 28th March 2023, when they were elected into office. He said there was need to remove the old Directors since their term of office had expired in the database of the Association and replace them with new Directors. The Chairman informed the meeting that the new Directors to be given mandate were; Mukundane Thomas (Chairperson), Musiime Beno (Secretary), and Asimwe Emmanuel (Treasurer). Rev. Kamondo Gershom moved the motion that the above mentioned Directors be given mandate to run the Association affairs and management of the Association. He was seconded by Canon Kaganzi John. The motion was put to a vote and 142 voted for and 2 against. Mr. Boona Chris moved the motion to give mandate to Mr. Musiime Benon to work as Secretary of the Association in the running and management of the association affairs. He was seconded by Mr. Odronic Moses, and the motion was put to a vote and 143 voted for and 2 against.' Under Minute 13/EOGM/11/2024 it was stated verbatim that, *'it was resolved that the appointed Chairperson, Secretary and Treasurer be given mandate to run the Association affairs and management as Directors. It was resolved that Mr. Musiime Benon be given mandate as the Secretary of the Association.'*

74. In *Seremba Mark Vs Isanga Emmanuel & 3 Others (In the matter of Greenvine College Ltd Companies Cause No 27 of 2004)* the learned Justice Geoffrey Kiryabwire nullified a resolution because a quorum had not been realized, the learned judge found in these words; *'In conclusion, I find that the meeting of the 15th August 2002 was improperly convened and therefore was illegal. All resolutions passed at the meeting therefore are null and void. It therefore follows that Mr. William Muwaya (2nd*

Respondent) and Steven Isabirye (the 3rd Respondent) did not become members, shareholders and/or office bearers of the company as a result of that meeting.' However, in the present case, I find that members were adequately notified of the meeting of 28th March 2023 that appointed Mukundane Thomas as a Chairperson of the association, who was later confirmed in this position in the meeting conducted on 22nd November 2024 alongside Musiime Benon and Asiimwe Emmanuel. This was put to a vote and 143 of the members voted for and only 2 against. In the circumstances, I find that all the aforementioned individuals were validly and procedurally appointed and they did not impose themselves as asserted by the Petitioners. The Petitioners claim that these individuals were elected in respect to another entity, 'MMLA,' is not convincing enough as this simply appears to be a short form for Mbarara Makhansingh Market Landlords Association Ltd. In any case, a search on the Companies register does not indicate the existence of any incorporated company called, 'MMLA,' which confirms that this was simply used as a short form for Mbarara Makhansingh Market Landlords Association Ltd.

75. Additionally, the fourteenth Petitioner contended in his supplementary declaration in rejoinder that the resolution was signed solely by three individuals, namely the first, second, and third Respondents. However, the Respondents provided attendance records with the minutes, which confirmed that although the Resolution was signed by three members, the decision was subjected to a vote in which over 143 members participated, with only 2 voting against it.

76. However, before I take leave of this issue, it is key for me to raise the concern regarding the number of directors currently on the Board visa vi the quorum requirement under Article 11.8.2 which stipulates that, *'the quorum necessary for the transaction of the Board of Directors meeting is 7 (seven) Directors.'* It is important for the Company to increase its Board members to meet the quorum requirement provided for under Article 11.8.2 of its Articles of Association.

c) Legitimacy of the Resolution authorizing the shifting of tenants and starting the market re-development on the Company's land comprised in LRV 4333, Folio 24, Plot 32-40, Victor Bwana Road Mbarara City.

77. The fourteenth Petitioner contended under paragraph nine of his Statutory Declaration that another special resolution was purportedly passed and registered on the 23rd December 2024 authorizing the shifting of tenants and starting the market re-development on the Company's land comprised in LRV 4333, Folio 24, Plot 32-40, Victor Bwana Road Mbarara City, without ever calling or holding a meeting with the other members of the Company. The said resolution was signed by the first, second and third Respondents.

78. The first Respondent deposed under paragraph 9 of his Statutory Declaration that the move to redevelop the market was beneficial to all the members of the Sixth Respondent company and was passed in a duly convened extra ordinary meetings of the sixth Respondent company, some of which the Petitioners attended in person. The first Respondent added that the decision to redevelop the market was a decision reached after the local government of Mbarara city had condemned the structures as inhabitable and it was in the best interest of the members of the Sixth Respondent that the market be redeveloped to a modern market. He attached letters from the Mbarara District local government leadership that had condemned the dire state of the market that required renovation. The first Respondent argued that the Petitioners were motivated by their own selfish motives as they intended to divert the funds meant for the market redevelopment, which the Respondents objected to and the Petitioners consequently filed this petition to frustrate the process of redeveloping the market.

79. A Company's meeting is considered to be properly held and its decisions (resolutions) are considered to be properly taken when the processes that are defined in the Companies Act and the Articles of Association of the

Company are adhered to in a strict manner. There must be adequate notice, a legitimate quorum, and the appropriate power to summon the meeting.

80. In this case the meeting was summoned by the Chairperson of the Board in line with Article 10.3 of the Articles of Association which provides that, *'the Board of Directors may, whenever it thinks fit, convene an extra ordinary general meeting and the extra ordinary general meetings may be convened by such requisitionists, as provided by section 132 of the Act. Any member of the Board of Directors or any two members of the Company may convene an extra-ordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Board of Directors.'*

81. A meeting must be convened with appropriate notice distributed to all members eligible to attend. The standard notice period for General Meetings is twenty-one clear days as provided for under Article 10.4.1 of the sixth Respondents Articles of Association. The case of *Re Bailey, Hay & Co. Ltd [1971] 1 W.L. 1357* illustrates that insufficient notice renders a meeting generally invalid; however, it may be validated if all shareholders are present and raise no objections as provided for under Article 10.4.2 of the Sixth Respondents Articles of Association. In the instant case, a notice was issued to members via the Bulk SMS service inviting the members of the Association to a meeting on the 14th of November 2024. Members indeed attended and participated in the proceedings. One of the agenda items at this meeting was a resolution to shift tenants and landlords to a new site. Minute5/EOGM/11/2024 indicates verbatim that, *'after a lengthy debate on the shifting of tenants to the new site, it was resolved as follows. The motion to shift tenants and landlords to the new site to pave way for the construction process to commence was moved by Rev. Canon Kamondo Gershom and was seconded by Ms. Kashaija Clare. The motion to shift tenants and landlords to a new place was put to a vote and those in favour were 105 against none...'* Minute 6/EOGM/11/2024 of the minutes states that, *'it was resolved that all the tenants and landlords should shift to the new constructed site to pave way for*

construction and redevelopment of the market by January 2025.' The attendance record of the members that attended the meeting is attached and marked annexure N.

82. In the present circumstances I find that the decision to shift the tenants and redevelop the market that had been condemned by the local government authorities for being in a dilapidated state, was passed lawfully and validly. I take note that notice was not dated as to enable one to make a conclusion on whether the twenty one days notice requirement was met, however, I am persuaded by the reasoning in *Parker and Cooper Ltd v Reading* [1926] Ch 975 where it was found that if a majority of the members of a company, who have a right to attend and vote, are present at a meeting or agree to it, they can proceed with business and pass valid resolutions even if the notice was improper.

83. Before concluding this issue, I wish to highlight a significant concern I observed while examining the attendance records of all meetings in relation to the subscribers of the Memorandum and Articles of Association. This review was essential to verify that the attendees of the meetings were the appropriate members eligible to participate and vote. Although several members were included on the subscription list, I observed that many did not affix their signatures to the subscription page in the Memorandum and Articles of Association of the Company. Establishing membership is crucial for any registered company, and it proved especially laborious for this specific Company. I implore the Board of Directors to ensure that all subscribers sign the subscription page of the Memorandum and Articles of Association to avoid ambiguity in determining membership of the Company. Only recognized members of the association who have signed the Memorandum and Articles of Association must be invited to Company meetings. Additionally, the provided phone contact lists, intended to verify the recipients of the notices for the called meetings, were ineffective in aiding to ascertain whether the notices were

exclusively dispatched to only company members. The Board must ensure that the names of the invited members are listed alongside their contact numbers for future meetings.

84. Additionally, it is essential for notices inviting members to meetings to be distributed to members physically. The proof of service of the notice eliminates any uncertainty regarding whether the notice was issued or merely generated post-dispute filing. A member needs to append receipt on a physical copy of the notice. In this instance, the notices were disseminated via radio and transmitted through bulk SMS service given that the Company has a large number of members, and this was understandable. However, I take note that proper service under Article 18.1 of the Articles of Association must be executed personally or by postal delivery to the member's registered address. While Article 18.5 of the sixth Respondents Articles of Association provides that, '*the accidental omission to give notice of a meeting to or the non receipt of notice of the meeting shall not invalidate the proceedings at that meeting*', the Board must ensure proper documentation of service of all notices issued to members regarding meetings, as notice is a fundamental requirement for the validity of convened and executed members' meetings. In this particular case, I find that the notice was effectively served due to the fact that the Respondents submitted receipts for the notice that was broadcasted via Radio West and the contact list of Bulk SMS messages that were sent to the members. Additionally, the fact that the majority of the members actually attended the meeting further supports this conclusion as it implies they were notified and were aware of the meeting.

b. Whether the affairs of the sixth respondent are being run in a manner that is oppressive, prejudicial, unfair and illegal to the Petitioners?

85. The Petitioners sought a declaration that the actions of the Respondents subjected them to oppressive conduct and that the conduct of the Respondents amount to unfairly prejudicial conduct. In doing so, the Petitioners raised two

distinct claims: Oppressive conduct, which falls within the jurisdiction of the Registrar of Companies, and Unfair prejudice, which lies within the jurisdiction of the High Court. I therefore find it necessary to briefly distinguish the two.

Oppressive Conduct v Unfair Prejudice/Prejudicial Conduct

86. Sections 243 and 244 of the Companies Act Cap. 106 establish two related but distinct remedies for members aggrieved by the conduct of a company's affairs. While both provisions aim to safeguard shareholders, particularly minority members, from unfair treatment, they differ in both nature and legal threshold. Section 243 (*formerly Section 247 of the Companies Act of 2012*) addresses member oppression, which concerns conduct that affects a member in their individual capacity as a member, and such matters fall within the jurisdiction of the Registrar of Companies. The petition submitted to the Registrar serves as an alternative remedy to winding up, indicating that the conduct in question must be serious rather than merely an isolated instance of unjust conduct. The conduct argued to amount to oppressive conduct must be such conduct that if left to continue would result in the winding up of the company.
87. Conversely, Section 244 (*formerly Section 248 of the Companies Act of 2012*) deals with prejudicial or unfairly prejudicial conduct, which affects the interests of members collectively and is to the detriment of the company and/or its objects, and is adjudicated by the High Court. In the case of *Olive Kigongo v. Mosa Courts Apartments, High Court Company Cause No. 01 of 2015*, the Court emphasized that '*...matters relating to oppression are meant to be dealt with by the Registrar of Companies under Section 247 (now 243) of the Companies Act. Court should restrict itself to matters that fall under Section 248 (now 244) relating to unfair prejudice which affects interests of members.*'
88. Justice Stephen Musota in the case *Edward Ssentenza and another V Donnie Company Limited and another HCT-00-CV-CI-0005-2016* distinguished the two by observing that;

- a. *If the complaint is that the minority shareholders are oppressed because decisions that are “burdensome, harsh and wrongful” against them are being made by the management of the Company and the acts complained of would as a test amount to grounds for winding up on just and equitable grounds, then the remedy is under S. 247 (now 243) before the Registrar of Companies.*
- b. *If the complaint is simply that the affairs of the Company are being managed in a manner unfairly prejudicial to the interest of the members then the remedy is under S. 248 (now 244) of the Companies Act Cap 106 before the High Court.*

89. Justice Musota’s observation draws a clear distinction between oppression under Section 243 and unfairly prejudicial conduct under Section 244 by focusing on the nature of the complaint and the proper forum for redress. Oppression under Section 243 requires conduct that is harsh, wrongful, abusive, or carried out in bad faith, often involving a violation of a member’s legitimate expectations, and therefore carries a higher and narrower standard of proof, and such complaints are handled by the Registrar of Companies. In contrast, unfairly prejudicial conduct under Section 244 concerns the broader management of the company’s affairs in a manner that is unfair to the interests of members generally, making it a governance issue that falls within the jurisdiction of the High Court. It does not require intentional wrongdoing and may arise from actions such as mismanagement, improper allocation of resources, exclusion from information, or any conduct that adversely affects members or the company’s interests.

90. As such, while oppression targets deliberate or abusive behaviour, prejudicial conduct is broader, easier to establish, and focuses primarily on the effect of the conduct rather than the intention behind it. The Courts having given different interpretations to the two remedies, the burden of proof in each case differs. In *Such v RW-LB Holdings Ltd (1993) 11 BLR (2d) Alta QB*, it was held that the *‘burden of proof required for unfair prejudice or unfair disregard is less rigorous than the burden of proof required for oppression because what is at issue is the unfair result*

of the conduct, not the state of mind of the wrongdoer'. Similarly, in *Re Mason and Intercity Properties Ltd*(1987) 59 OR (2d) 631 CA Blair JA opined that 'oppressive' conduct involves a more rigorous standard than that of 'unfair prejudicial conduct' or conduct which 'unfairly disregards'.

Oppression in the instant case

91. Having distinguished the two, I will now consider the allegation of oppression, which falls within the jurisdictional mandate of the Registrar of Companies, in light of the facts before me. Section 243 of the Companies Act, Cap. 106, is to the effect that a member of a company who is subjected to oppressive conduct may petition the Registrar of Companies for appropriate relief.
92. Oppression, as discussed above, connotes actions that are burdensome, harsh, or wrongful, and which violate a member's reasonable expectations of how the company should be run. In *Elder vs Elder & Watson Ltd. [1952] SC 49*, Lord Cooper noted that '*...oppression requires a visible departure from standards of fair dealing and an infringement on the aggrieved party's proprietary or participatory rights*'. For the Petitioners to succeed on grounds of oppression in the Companies Act, they must show not only that they have been oppressed as members of the Sixth Respondent Company, but also that it has been the affairs of the company that have been conducted in a manner oppressive towards them. The oppression complained of must be to a person in their capacity as a member and not in any other capacity. In *Re: Five Minutes Car Wash Services Ltd. [1966] 1 ALL ER 242 at pp 246-247*, Buckley J held that a member claiming oppression '*...must have established that at the time when his petition was presented, the affairs of the Company were being conducted in a manner oppressive of himself, or of a part of the members including himself, and unless a petitioner in his petition alleges facts capable of establishing that the Company's affairs are being conducted in such a manner, the Petitioner will disclose no ground for granting any relief and will be dismissed as being demurrable. First, the matters complained of must affect the person or persons alleged to have been oppressed in his or their character as a member or*

members of the Company. Harsh or unfair treatment of the member in some other capacity, as for instance a director or creditor of the Company, or as a person doing business or having dealings with the company, or in relation to his personal affairs apart from the Company, cannot entitle him to any relief. Furthermore, in Cliff Masagazi v Afriland First Bank Uganda Ltd (Company Cause No. 08 of 2020) the learned Justice Musa Ssekana observed that ‘Oppressive conduct ... necessitates a course of conduct, not mere isolated acts...involving an invasion of legal rights, displaying lack of probity on the part of those conducting the company’s affairs, and affecting the Petitioner in his capacity as a member.’

93. In the instant facts, Counsel for the Petitioner argued in his written submissions that majority of the members are dissatisfied and aggrieved by the Respondents fraudulent actions, illegal decisions and changes in the management system of the Company made by the first, second and third Respondents from 17th May 2024 violating the Company’s memorandum and Articles of Association, the Companies Act Cap 106, interests and rights of the Petitioners and other members of the Company.

94. Counsel for the Petitioners noted in the Petitioners brief facts in the Joint Scheduling Memorandum, that, *‘a majority of the members of Mbarara Makhsingh Market Landlords Association Ltd had instituted the Petition being aggrieved by the conduct of the first, second and third Respondents who are currently holding the Company hostage.’* Key emphasis here is the assertion that the claim was instituted by a majority of the members of the Company. Section 243 of the Companies Act Cap 106 offers a remedy to minority members not the majority since the majority are expected to have the power to requisition for meetings and vote in favour of their desired resolutions. The majority can requisition for an extra-ordinary meeting under Article 10 of the Companies Articles of Association and internally put to a halt the Board’s actions or vote in favour of a new Board at the next Annual General Meeting.

95. Additionally, the first part of this decision found that the first, second and third Respondents were validly appointed and that the decision to shift tenants and develop the market was procedurally and regularly arrived at by the Company through duly convened meetings. I therefore do not find the Respondents actions oppressive in nature. If the members are dissatisfied with the Board actions and modus of running Company affairs, the majority can vote them out at a duly convened members meeting and constitute a new Board of Directors.
96. Thus, in resolution of the second issue, I find that the evidence does not establish the consistent and sustained pattern of conduct required to meet the threshold for oppression under Section 243 of the Companies Act, Cap. 106 and decided cases. Accordingly, the Respondents actions, did not occasion the Petitioners any oppression within the meaning of the law.

c. What remedies are available to the parties?

97. Considering the analysis above and pursuant to Regulations 32 of the Companies (Powers of the Registrar) Regulations SI No 71 of 2016, I hereby make the following orders;

- 1) *The Respondents actions did not constitute oppressive conduct within the meaning of Section 243 of the Companies Act Cap 106.*
- 2) *The Company shall ensure that all subscribers to the memorandum and articles of association append their signatures against their names in the Memorandum and Articles of Association.*
- 3) *That the Company shall ensure that all members who have appended their signatures to the memorandum and articles of association are entered as members in the Online Business Registration System (OBRS) within a period of sixty (60) days from the passing of this ruling.*
- 4) *That the Company shall appoint additional directors to meet the quorum requirement under Article 11.8.2 of the Company's Articles of Association.*
- 5) *Each party shall bear its own costs.*

I so Order.

Given under my hand this 09th day of March 2026

Daniel Nasasira
Ass. Registrar of Companies