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 VICTORIA MOTORS LIMITED
COMPANY PETITION NO. 40768 OF 2026
BRN: 80010000040768

SAMUEL JOHN KIBUUKA
MERCANTILE EXECUTIVE SERVICES LTD:::::::::::::::::::::::::::::::::::::PETITIONERS

VERSUS

M/S VICTORIA MOTORS LIMITED:::RESPONDENT

RULING

Before: Daniel Nasasira - Assistant Registrar of Companies

A. ***Representation.***

1. *Birungyi, Barata & Associates represented the Petitioners, while Dentons Advocates represented the Respondent Company.*

B. ***Introduction and Background***

2. Victoria Motors Limited is a company limited by shares duly incorporated under the laws of Uganda on 29th December 1964 under Registration Number 80010000040768 (hereinafter referred to as "*the Company*").
3. The First Petitioner is an adult Ugandan of sound mind and a shareholder in the Respondent Company.

4. The Second Petitioner, Mercantile Executive Services Ltd, is a company limited by shares, duly incorporated under the laws of Uganda, and is likewise a shareholder in the Respondent Company.
5. The Petition was filed on 26th June 2026. The Petitioners contend that the last Annual General Meeting ("AGM") of the Company was held on 23rd February 2021 and that no further AGM has been convened or held since then. Having allegedly made an unsuccessful attempt to requisition an AGM pursuant to Section 134(2) of the Companies Act, Cap. 106, the Petitioners seek the intervention of the Registrar of Companies.
6. The Respondent Company opposes the Petition and contends that it is misconceived and incompetent. The Company further contends that the Petition was instituted in bad faith and constitutes an attempt by the Petitioners to circumvent or otherwise interfere with proceedings pending before the High Court.
7. In particular, the Respondent Company challenges the validity of the purported requisition on the ground that it was legally defective and, consequently, incapable of giving rise to the reliefs sought by the Petitioners.

C. Petitioners' Case

8. The Petitioners contended that under Articles 107-109 of the Respondent Company's Articles of Association, the office of Director in the Respondent Company is an annual appointment with all Directors mandatorily required to retire from office at the Annual General Meeting, whereupon the General Meeting of members shall elect new Directors to the Board.
9. The Petitioners, through the Statutory Declaration of Samuel John Kibuuka in support of the Petition, deposed under paragraph 1(i) and (j) that the last Annual General Meeting of the Company was held on 23rd February 2021 at which the current Board of Directors was appointed. That to date, no subsequent Annual

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General Meeting of the Company has been held, and the current directors have remained in office solely on the strength of the elapsed appointment and in clear violation of the Company's Articles of Association.

10. The Petitioners allege that, premised on Section 134(2) of the Companies Act Cap. 106, which provides that "*A private company may at the requisition of a member hold an annual general meetin*g", on 24th March 2026 they formally requisitioned the Board of Directors of the Respondent Company to convene a General Meeting of members within twenty-one (21) days of receipt of the notice for the following purposes;
    a) Retirement from the office of all current Directors of the Board of Victoria Motors Limited.
    b) Appointment of new Directors of Victoria Motors Limited
    c) Review of Financial Performance FYI 2022 - FYI 2025 and affairs of the Respondent Company, and any other business.
11. The Petitioners further intimated that they duly submitted names and Curriculum Vitae of their proposed nominees for appointment to the Board of Directors of the Respondent Company and further sought guidance on the procedural requirements for formalising the said nominations.
12. That as at the date of filing the Petition, no meeting had been called, and no response to the requisition had been received.
13. The Petitioners claimed that, by not honouring the requisition, the Respondent Company is in continuing default of its mandatory obligation under the Companies Act and its Articles of Association.
14. The Petitioners further stated that the purported default by the Board has resulted in a corporate deadlock, undermined the democratic shareholder oversight, and constitutes an ongoing usurpation of the members' fundamental right to elect,

supervise and hold accountable the Board of Directors of the Company and participate meaningfully in the governance of the Company.

15. Pursuant to Section 134(4) of the Companies Act Cap. 106, the Petitioners prayed that the Registrar of Companies be pleased to grant the following declarations and orders;

    a) *A declaration that the Respondent is in default of its obligation to hold an Annual General Meeting upon the requisition of the Petitioners, contrary to Section 134(2) of the Companies Act Cap. 106 and Articles 107-109 of the Respondent Company's Memorandum and Articles of Association.*

    b) *An order that an Annual General Meeting of the Company be called and held within twenty-one (21) days of the date of the ruling on this Petition for the following purposes.*

        (i) Tabling Annual Accounts together with the Directors' and management review report of FY 2022 - FY 2025

        (ii) Appointment of Auditors

        (iii) Appointment of Directors

        (iv) Presentation of Company Strategies and Outline of 5-year Plan and Review.

        (v) Any other business.

    c) *An order that the Registrar of Companies presides over and supervises the conduct of the Annual General Meeting ordered herein, to ensure compliance with the provisions of the Companies Act Cap. 106 and the Respondent's Memorandum and Articles of Association with respect to the retirement, election and appointment of the Board of Directors.*

    d) *An order that the costs of and incidental to this Petition be borne by the Respondent; and*

    e) *Such further order as the Registrar may deem fit and just in the circumstances*

D. ***Respondent's Case***

16. The Respondent Company, through the Statutory Declaration of Gad Wilson, a Director of the Company, contended that the Petition was brought in bad faith and was without merit.

17. The Respondent Company, on the advice of its lawyers, raised the following Preliminary objections;

    a) That the Registrar of Companies lacks jurisdiction to entertain the Petition as the Petitioners' requisition was made under Article 56 of the Respondent Company's Articles of Association and Section 135 of the Companies Act Cap. 106 for the convening of an Extraordinary General Meeting (EGM). The Respondent Company therefore argued that Sections 134(2) and (4) were inapplicable and that the Petition is legally unsustainable.

    b) That the Petitioners' requisition for an Extraordinary General Meeting (EGM) is legally defective for being advanced jointly with a one Mr. Ben Michael Kiiza who was described as a stranger to the Respondent Company, and as having no *locus standi* to requisition a meeting of the Respondent Company, as there was no attachment to the requisition of any power of attorney or lawful authority allowing him to requisition the Respondent Company for an EGM.

    c) That the Petition constitutes an abuse of the regulatory process and is brought for an improper collateral purpose to circumvent the proceedings before the High Court, namely, *Company Cause No. 4 of 2025: Samuel John Kibuuka v Victoria Motors Limited* and *Company Cause No. 5 of 2025: Mercantile Executive Services Ltd v Victoria Motors Limited* through a reconstituted Board that would approve the share transfer to Mr. Ben Michael Kiiza that was lawfully declined and remains *sub judice.*

d) That the reliefs sought at paragraph (b) and (c) of the prayers in the Petition are incompetent and not available for grant as they exceed the powers conferred on the Registrar under Section 134(4) of the Companies Act Cap 106.

18. In response to the substantive issue, the Respondent Company, through the Statutory Declaration of Gad Wilson, averred that the allegation of failure to hold Annual General Meetings was false. He deposed under paragraph 4 of his Statutory Declaration that the Respondent Company had routinely convened and held Annual General Meetings (AGM's) in which the Petitioner purportedly fully participated through a duly appointed proxy. He attached a copy of a Notice for an Extraordinary General Meeting (EGM) and Notice of appointment of proxy in support of this assertion.
19. In addition, Gad Wilson asserted that the Petitioners' repeated, continuous, and protracted litigation against the Respondent Company had significantly hindered and constrained the Board in the effective discharge of its statutory and administrative functions and has contributed, or is likely to contribute, to the alleged corporate deadlock.
20. It was contended that the Respondent Company is not, and has never been, opposed to holding an AGM provided that it is convened and conducted strictly in accordance with the Companies Act and its Articles of Association. Gad Wilson intimated that the Respondent Company's affairs have at all material times been conducted lawfully and that its directors remain validly in office pending the convening of a general meeting in accordance with the Company's Articles of Association.
21. The Respondent Company prayed that the Petition be dismissed with costs, arguing that the Petitioner is not entitled to any of the remedies sought.

E. *Rejoinder*

22. In Rejoinder, the Petitioners responded to the Preliminary Objections raised by the Respondent Company as follows;

a) That the Petition was brought, and the reliefs sought are anchored squarely on Section 134 of the Companies Act Cap. 106 on account of the Respondent Company's continuing default in convening Annual General Meetings alleged continuing default in convening Annual General Meetings contrary to Articles 54 and 107-109 of the Company's Articles of Association.

b) That the present Petition is brought under Section 134(4) of the Companies Act Cap. 106, which confers jurisdiction on the Registrar of Companies in this matter and that the Preliminary objection relating to challenging the Registrar's jurisdiction does not disclose any legal basis and is therefore misconceived.

c) That the requisition to the Board of Directors was not defective and was made by and on behalf of the Petitioners as registered shareholders through their Advocates. That Mr. Ben Michael Kiiza was joined to the said requisition solely in his capacity as the donee/holder of a valid and subsisting Power of Proxy issued to him by the Petitioners.

d) That *Company Cause No. 04 of 2025* and *Company Cause No. 05 of 2025* presently pending before the High Court of Uganda (Commercial Division) concern entirely distinct and unrelated subject matter, namely, the validity of a proposed share transfer and therefore the doctrine of *sub judice* does not apply.

e) That the Petitioners are minority shareholders in the Respondent Company, allegedly holding approximately 20% of the Company's shares combined. They therefore contended that it is practically impossible for them to secure a Board favourable to them or to Ben Michael Kiiza by convening a General Meeting, as alleged.

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23. In rejoinder to the merits, and in specific response to Gad Wilson's assertion that the Respondent Company has routinely convened and held Annual General Meetings (AGM's) in which the Petitioners purportedly fully participated through a duly appointed proxy, the Petitioners denied the same, maintaining that the last Annual General Meeting of the Respondent Company had been on 23rd February 2021.

24. The Petitioner further averred under paragraph 8 of the Reply to the Answer to the Petition that;

    a) The Notice of Extraordinary General Meeting dated 19th September and Form of Proxy dated 26th October 2023 attached to the Answer respectively marked "A" and "B" relate to an entirely different and unrelated matter, namely, the proposed reduction of the Respondent Company's share capital and do not in any way evidence the holding of any Annual General Meeting of the Company.

    b) No minutes, signed resolutions, attendance record, or any other document evidencing that the said meeting was in fact held, was duly constituted with the requisite quorum and concluded, have been adduced by the Respondent.

    c) That in any event, and without prejudice to the foregoing, even assuming the said meeting, if held at all, was held in September 2023, it does not answer the Respondent's continuing default in convening Annual General Meetings for the financial years 2024, 2025 and 2026.

    d) That the Respondent Company remains in continuing and admitted default of its obligations under Article 54 of the Company's Articles of Association and Section 134(2) of the Companies Act.

25. In rejoinder to Gad Wilson's intimation that the Petitioners' repeated, continuous, and protracted litigation against the Respondent Company has significantly

hindered and constrained the Board in the effective discharge of its statutory and administrative functions and has contributed, or is likely to contribute, to the alleged corporate deadlock, the Petitioners argued that the existence of seperate and unrelated litigation between the parties cannot in law suspend or extinguish the Respondent Company's continuing statutory obligation to hold Annual General Meetings.

26. The Petitioners averred that they seek only the convening of the Annual General Meeting of the Respondent Company in accordance with its Articles of Association at which meeting the members shall lawfully transact the ordinary business of the Company.

27. Following Gad Wilson's assertion that the Respondent Company is not and has never been opposed to holding an AGM provided that it is convened and conducted strictly in accordance with the Companies Act and its Articles of Association, the Petitioners prayed that the Registrar be pleased to enter a ruling, on the strength of this admission, directing the convening of the Annual General Meeting of the Respondent Company, and granting the further ancillary orders sought in the Petition.

F. <u>Issues</u>

28. Having heard the matter and received evidence from both parties by way of Statutory Declarations pursuant to Section 286 of the Companies Act Cap 106, I find the following issues sufficient to dispose of this matter.

    a) *Whether the preliminary objections raised by the Respondent Company are meritorious and sufficient in law to render the Petition incompetent or otherwise oust or limit the jurisdiction of the Registrar to entertain and determine the matter?*

    b) *Whether the Respondent Company has complied with its obligation to convene Annual General Meetings?*

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c) *What remedies, if any, are available to the parties*

G. *<u>Determination</u>*

a. ***<u>Whether the preliminary objections raised by the Respondent Company are meritorious and sufficient in law to render the Petition incompetent or otherwise oust or limit the jurisdiction of the Registrar to entertain and determine the matter?</u>***

29. A preliminary objection is a pure point of law raised at the outset of proceedings which, if successfully argued, may dispose of the suit or application without the need to consider evidence on the merits.

30. The law is settled that a preliminary objection, being a threshold issue capable of disposing of a matter, should be raised and determined before the court or tribunal embarks on the substantive merits of the dispute. In ***Mukisa Biscuit Manufacturing Co. Ltd v West End Distributors Ltd [1969] EA 696***, Court observed that *"A preliminary objection consists of a point of law which has been pleaded, or which arises by clear implication out of pleadings, and which if argued as a preliminary point may dispose of the suit."*

31. The Respondent Company raised four preliminary objections, namely: (i) that the Registrar lacks jurisdiction to entertain the Petition as the requisition was made for an Extraordinary General Meeting under Article 56 of the Company's Articles of Association and Section 135 of the Companies Act; (ii) that the requisition was legally defective on account of the participation of Mr. Ben Michael Kiiza, who is allegedly not a member of the Company; (iii) that the Petition constitutes an abuse of the regulatory process and an attempt to circumvent pending High Court proceedings; and (iv) that some of the reliefs sought exceed the powers conferred upon the Registrar under section 134(4) of the Companies Act. I shall address each.

<u>Alleged lack of jurisdiction of the Registrar to entertain the Petition</u>

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32. The Respondent Company contended that the Registrar lacks jurisdiction to entertain the Petition because the Petitioners' requisition was made pursuant to Article 56 of the Respondent Company's Articles of Association and Section 135 of the Companies Act Cap. 106 for the convening of an Extraordinary General Meeting ("EGM"). It was therefore argued that the Petitioners' reliance upon Sections 134(2) and 134(4) of the Companies Act Cap. 106 is misplaced, since those provisions concern the requisition and convening of an Annual General Meeting ("AGM"), whereas the meeting actually requisitioned by the Petitioners was an EGM.

33. I have carefully considered the requisition upon which the Petition is founded. The document, which was annexed to the Petition and marked "G", is expressly titled "*<u>Request for Extraordinary General Meeting of Victoria Motors Limited (VML)</u>*".

34. The substance of the requisition is consistent with its title. In paragraph 8 thereof, the Petitioners expressly invoked Article 56 of the Company's Memorandum and Articles of Association and Section 135 of the Companies Act, Cap. 106, stating that the Board of Directors was required to convene an Extraordinary General Meeting upon the requisition of members.

35. Article 56 of the Company's Articles of Association provides, *inter alia*, that "*The Board may, whenever it thinks fit, convene and <u>Extra-ordinary General Meeting</u> and <u>Extraordinary General Meetings</u> shall also be convened on such requisition or in default may be convened by such requisitionists…*"

36. Similarly, Section 135 of the Companies Act, Cap. 106 titled "*<u>Convening of extraordinary general Meeting on requisition</u>*", provides the circumstances in which members may requisition such a meeting, the timelines involved and the consequences of default by the company.

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37. More importantly, paragraph 10 of the requisition leaves no ambiguity as to the Petitioners' intention. It expressly states that *"...our clients formally requisition the Board to convene an <u>Extraordinary General Meeting</u>…"*

38. It is therefore clear from the requisition relied upon by the Petitioners and received by the Company on 24th March 2026 that the Petitioners did not requisition the Respondent Company to convene an Annual General Meeting under Section 134(2) of the Companies Act. Rather, they requisitioned an Extraordinary General Meeting, expressly relying upon Article 56 and Section 135 of the Act.

39. This distinction is material because the statutory provisions governing an AGM and an EGM are distinct. Section 134(2) provides that *"A private company may at the requisition of a member hold an annual general meeting."* Section 134(4), in turn, provides a remedial mechanism where default is made in holding a meeting in accordance with subsection. It provides *"Where default is made in holding a meeting of the company in accordance with subsection (2), the Registrar may, on the application of any member of the company, call or direct the calling of a general meeting of the company and give such ancillary or consequential directions as the Registrar thinks expedient including directions modifying or supplementing in relation to the calling, holding and conducting of the meeting, the operation of the company's articles*."

40. It follows from the wording of Section 134(4) that the Registrar's power under that provision is predicated upon the existence of a default arising from a requisition made under Section 134(2). In other words, Section 134(4) does not operate independently of Section 134(2) as the latter provides the statutory foundation upon which the remedial power under the former may be invoked.

41. In the present case, that statutory foundation is absent. The Petitioners' requisition was expressly made under Article 56 and Section 135 for the convening of an Extraordinary General Meeting. There is no evidence before me of a separate requisition made by the Petitioners under Section 134(2) for an Annual General

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Meeting which the Respondent Company subsequently failed or refused to convene.

42. Consequently, the Petitioners cannot rely upon a requisition intentionally made under Section 135 for an EGM as the statutory trigger for the exercise of the Registrar's powers under Section 134(4), which is predicated upon default following a requisition under Section 134(2) for an AGM.

43. I therefore find that, notwithstanding the Petitioners' subsequent characterization of their grievance as one concerning the failure to convene an AGM, the document upon which their application is founded establishes that the meeting they actually requisitioned was an Extraordinary General Meeting. The statutory mechanism under Section 134(4) was therefore not properly invoked.

44. In the circumstances, the reliefs sought in the Petition under Section 134(4) cannot properly be granted on the basis of the requisition relied upon by the Petitioners. The Respondent Company's preliminary objection on this ground is accordingly upheld.

45. Having reached this conclusion, the Petition cannot succeed on the basis upon which it has been presented. It is therefore unnecessary for me to consider the remaining preliminary objections or to proceed to determine the substantive merits of the Petition.

b. *<u>What remedies, if any, are available to the parties?</u>*

46. Having found that the Petition is founded on a requisition for an Extraordinary General Meeting under Article 56 of the Company's Articles of Association and Section 135 of the Companies Act Cap. 106, rather than a requisition for an Annual General Meeting under Section 134(2), I find that the statutory conditions for the exercise of the Registrar's powers under Section 134(4) have not been satisfied. Accordingly, the Petitioners are not entitled to the reliefs sought under Section 134(4) of the Companies Act.

47. The remedy in the circumstances would have been for Petitioners to pursue the appropriate statutory relief under Section 134(2) of the Companies Act, Cap. 106 and make a proper requisition for the Annual General Meeting of the Company.

48. However, it has since been brought to the attention of the Registrar that, on 17th August 2026, the Respondent Company issued a Notice to its shareholders, including the Petitioners, convening an Annual General Meeting scheduled for 25th September 2026. The Notice indicates that the proposed agenda includes, *inter alia*, the consideration and adoption of the Company's Audited Financial Statements and Reports, the Directors' Report and the Auditors' Report, as well as the retirement, election and/or re-election of Directors and consideration of their remuneration.

49. In light of this subsequent development, the parties are therefore advised to proceed with the Annual General Meeting scheduled for 25th September 2026 and to ensure that the same is convened and conducted strictly in accordance with the Companies Act, Cap. 106, and the Company's Memorandum and Articles of Association. The Respondent Company should ensure that all persons entitled to receive notice of the meeting are duly notified within the prescribed period and that proper records of the meeting, including the attendance record, minutes and resolutions, are duly prepared and filed with the Companies Registry.

50. The Petitioners, however, raised concerns regarding the addendum to the Notice of the Annual General Meeting. They contended that the addendum purports to restrict their duly appointed proxy, Mr. Ben Michael Kiiza, from attending the meeting on account of his involvement with the Respondent Company's related company, Victoria Motors Rwanda Limited, and pending litigation concerning matters connected to the Respondent Company. The Petitioners further contended that the addendum purports to restrict their legal representatives, including Mr. Cephas Birungyi, Dr. Daniel Ruhweza and other advocates from Birungyi Barata

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& Advocates, from attending on account of alleged actual, potential or apparent conflicts of interest.

51. The Petitioners contend that these restrictions are made in bad faith and would improperly prevent them from being represented and from fully participating in the Annual General Meeting. They further sought the intervention and attendance of the Registrar at the meeting as a neutral party, as contemplated in prayer (c) of the Petition.

52. The Respondent Company, on the other hand, maintained that its Directors have the power to regulate and direct the conduct of the Company's meetings and that the circumstances did not warrant external intervention in the conduct of the meeting.

53. In the circumstances, the issues concerning the eligibility of particular persons to attend or represent the Petitioners at the meeting, the alleged conflicts of interest of the proposed representatives, and the propriety or otherwise of the restrictions contained in the addendum raise questions which go beyond the Registrar's mandate/jurisdictional authority.

54. The Registrar of Companies' power is statutory in nature and relates to the exercise of two distinct functions, namely, the power under Section 243 of the Companies Act, Cap. 106 to hear and determine complaints of oppression by members, and the power under Regulation 8(1) of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016 to rectify and update the company register, including expunging information or documents that are misleading, inaccurate, issued or entered in error, contain an illegal endorsement, or have been illegally or wrongfully obtained.

55. Accordingly, I will not make any determination on the validity or effect of the addendum, the alleged conflicts of interest, or the entitlement of particular representatives to attend the meeting in these proceedings. The Petitioners are

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advised to pursue any relief concerning the addendum before the High Court, which has the requisite jurisdiction to entertain such matters.

Obiter Dictum

56. Before concluding, I consider it appropriate to state the importance of Annual General Meetings. An AGM is not merely a statutory formality. It provides an important mechanism through which shareholders exercise their rights to receive information concerning the affairs and financial performance of the Company, consider its accounts and reports, appoint or re-elect Directors and auditors where applicable, and participate in the governance and oversight of the Company. It is, in essence, one of the principal forums through which the Board is held accountable to the members whose interests it is entrusted to manage.

57. The proper conduct of an AGM therefore requires that members be afforded a genuine opportunity to participate in the business of the meeting in accordance with the law and the Company's Articles of Association. Where a member has lawfully appointed a proxy to represent him or her, the purpose of the proxy mechanism should ordinarily be respected, subject always to any lawful limitations imposed by the Companies Act or the Company's governing instruments. Likewise, disagreements concerning the identity or suitability of a member's representative should, wherever possible, be addressed in a manner that facilitates rather than frustrates the orderly conduct of the meeting.

58. I would therefore urge the Board and the Petitioners to approach the forthcoming Annual General Meeting in a spirit of corporate responsibility, restraint and good faith, bearing in mind that the ultimate purpose of the meeting is to enable the Company and its members to transact the lawful business of the Company. The Board is accountable to the members, while the members likewise have a responsibility to exercise their rights in accordance with the law and the

Company's governing instruments. Both sides should accordingly endeavour to ensure that the meeting is conducted orderly and transparently, and that existing disagreements are not allowed to unnecessarily frustrate the Company's continued corporate functioning.

59. Accordingly, and pursuant to Regulation 32 of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016, the Petition is hereby dismissed with no order as to costs.

I so Order.

Given under my hand this 21st day of August 2026

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Assistant Registrar of Companies