

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**(CIVIL DIVISION)**  
**COMPANY CAUSE NO. 23 OF 2018**  
**IN THE MATTER OF THE COMPANIES ACT 2012**  
**AND**  
**IN THE MATTER OF AN APPLICATION BY AKUNDWA MARK RICHARDS**  
**LIVINGSTONE (APPLICANT)**  
**AND**  
**IN THE MATTER OF WAHEGURU ELECTRICAL ENGINEERING SOLUTIONS LIMITED**  
**(RESPONDENT)**

**BEFORE HON. JUSTICE SSEKAANA MUSA**

**RULING**

This is an application is brought under sections 142 of the Companies Act and Order 38 r 6(h) of the Civil Procedure Rules.

The applicant is seeking orders;

1. An Order that an Extra-ordinary meeting can be called and conducted by the applicant.
2. Consequently, the board of directors meeting be held to pass a resolution to change the signatory to the bank account.
3. An order the bank account shall be operated by the applicant.
4. The costs of this application be borne by the company.

The main grounds for this application are;

- a) That Applicant is the only remaining member of the Company after the death of the Co-shareholder and director a one Manjit Singh.
- b) The company can neither convene a director's meeting in absence of the second director.
- c) The applicant cannot call an extra general meeting of the company since such a meeting is called at the instance of the board which is non existent because there is a requirement for a simple Majority of two to constitute the quorum.
- d) It is in the interests of the company that the applicant be granted the order to call and conduct an extra ordinary General meeting.

This court entertained the matter and heard the submissions of counsel for the applicant. The applicant's counsel made submissions based on the application and the supporting affidavit. They also filed brief submissions in court and this court has considered them in arriving at this decision.

When the court was about to deliver a ruling Counsel Asa Mugenyi appeared for the company and specifically to represent the interests of the family of the majority shareholder who had passed on in India.

The deceased owned 99% of the shares while the applicant held 1% and the court in the interest of justice entertained counsel to take part in the proceedings.

The widow-(Baljinder Kaur) in her affidavit in reply states that she is in the process of obtaining letters of administration of the estate of the deceased.

That sometime in August 2018, the late Manjit Singh fell ill and requested Mr Kamal Jit Singh to run the company until he got better.

The applicant's problem or dilemma in this matter is in simple terms, he cannot hold a meeting to direct the affairs of the company since one of the shareholders died and this left only one shareholder who cannot convene a general meeting.

Under Article 27 of the company Articles of Association, the quorum of members to conduct business shall be two thirds of the members present.

Similarly the quorum for the board of directors under Article 99 of Table A of the Companies Act may be fixed by the directors but if not fixed the quorum is two.

The **Companies Act** envisages such situations and is ably provided for under section 142 which provides as follows;

*(1) Where for any reason it is impracticable to call a meeting of a company in any manner in which meetings of that company may be called or conduct the meeting of the company in the manner prescribed by the articles of this Act, the court may of its own motion or on application of any director of the company or of any member of the company who would be entitled to vote at the meeting order a meeting of the company be called, held and conducted in the manner the court thinks fit.*

The applicant has set out the reasons why he is unable to hold a meeting in order to enable the company operate smoothly and convene the necessary company meetings and this court is satisfied with the said reasons.

It is also not clear from the affidavit of the applicant whether he was involved in the management of the company. There are allegations that he had resigned from the said position and the letter of resignation is in the premises.

The applicant's interest in calling the extra general meeting is not to appoint new directors or transmission of shares to representatives of the estate of the late Manjit Singh. It appears the main reason of calling the board meeting is to change the signatory to the bank accounts of the company and to be allowed to operate the said bank account alone. This also raises serious issues to any bystander. There is no interest in continuing to run the company with a view of furthering its operations or objectives by the applicant.

It is also true that the late could have assigned or requested Mr Kamal Jit Singh to run the company since he was unwell, but the same authority ceased at the time of death and the wife before being admitted in the company through transmission of shares could not give any orders or directives in the management of the affairs of the company.

There are serious issues to be resolved before the company becomes fully operational after the death of the majority shareholder and it is in the interest of the family of the Late Majit Singh that all these issues are ironed out before a new management is allowed to operate the same.

In the circumstances, the court declines to allow the applicant to hold a Board meeting and an Extra General meeting for the purpose of accepting the new shareholder(s) through transmission of shares until the widow or family members of the late Majit Singh have taken out letters of administration. In case they fail to do so within a reasonable time, the Administrator General shall take out the letters of Administration in Uganda.

A fresh application shall be filed and heard in presence of both parties on the way forward of the company. The current status quo should be maintained to avoid either party from wasting the company property or funds.

The application is dismissed with no order as to costs.

It is so ordered.

**SSEKAANA MUSA**

**JUDGE**

**12<sup>th</sup>/10/2018**