

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(CIVIL DIVISION)
MISCELLANEOUS CAUSE NO. 169 OF 2020
IN THE MATTER OF THE COMPANIES ACT 2012
AND
IN THE MATTER OF BANK OF BARODA UGANDA LIMITED
AND
IN THE MATTER OF AN APPLICATION BY MR. MANOJ KUMAR BAKSHI.

BEFORE HON. JUSTICE SSEKAANA MUSA

RULING

This is an application is brought under sections 142 of the Companies Act, Section 33 of the Judicature Act and Order 38 r 6(h) of the Civil Procedure Rules.

The applicant was represented by John Fisher Kanyemibwa.

The applicant is seeking orders that;

1. ***Bank of Baroda(Uganda) Limited*** is granted leave to convene the Annual General Meeting for the year ended 31st December 2019 by electronic means, subject to obtaining a prior no-objection from Uganda Securities Exchange and complying with all applicable notices issued under the Uganda Securities Exchange Listing Rules 2003 and the law.

2. The costs of this application be provided for.

The main grounds for this application are;

- a) That the applicant is an Executive Director of the Company with effect from the 25th August 2017.
- b) The Company is a public company that is listed on the Main Investment Market Segment of the Uganda Securities Exchange with membership of 2073 shareholders as of the 30th day of June both local and foreign
- c) The company is required to convene an Annual General Meeting in respect of every concluded financial year in accordance with the Company's Articles of Association, the Companies Act 2012, the Uganda Securities Exchange Listing Rules 2003 and the Capital Markets Corporate Governance Guidelines 2003.
- d) It is a requirement under the company's Articles of Association that any Annual General Meeting of the Company be physically convened with a quorum of at least three members entitled to attend the meeting present physically in person.
- e) It is a legal requirement under the Companies Act that a company should hold its Annual General Meeting within 15 months of its previous Annual General Meeting.
- f) The Company held its last Annual General Meeting for the year ended 31st December, 2018 on 27th June 2019 and the last date for holding the Company's Annual General Meeting for the year ended 31st December, 2019 will be 26th September 2020.
- g) Owing to the restrictive public health measures under the Public Health Regulations promulgated by the Uganda Government to combat the COVID 19 pandemic it is currently impractical to convene and hold an Annual General Meeting of the Company Physically as prescribed by the Company's Articles of Association.

- h) It is imperative that the Company holds its Annual General Meeting for the year ended 31st December, 2019 before the 26th day of September, 2020 to comply with the said legal requirement and for the members of the company to consider and approve the resolutions that are reserved by law for their mandate for the proper governance of the Company.
- i) It is appropriate that the court grants leave for the company to convene and hold the Annual General Meeting for the year ended 31st December, 2019 by electronic means through the Virtual Annual General Meeting services provider to be approved by the company.
- j) To protect the interest of all members of the company, the company will submit an Electronic Annual General Meeting Plan to Uganda Securities Exchange and seek a no-objection to the said plan in accordance with Uganda Securities Exchange Guidelines

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

This court under section 33 of the Judicature Act is empowered to give any remedies sought in a matter if properly brought before the court. It provides;

The High Court shall, in the exercise of the jurisdiction vested in it by the Constitution, this Act or any written law, grant absolutely or on such terms and conditions as it thinks just, all such remedies as any of the parties to the cause or matter is entitled to in respect of any legal or equitable claim properly brought before it, so that as far as possible all matters in controversy between the parties may be completely and finally determined and all multiplicities of legal proceedings concerning any of those matters are avoided.

The applicant's problem or dilemma in this matter is in simple terms, she cannot hold a meeting to direct the affairs of the company since the government banned all public meetings in order to combat the spread of Corona virus [(Covid-19)].

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 and grounds why the company is unable to hold a meeting in the manner provided under the Articles of Association and the justification for such a meeting; to enable the company operate smoothly and convene the necessary company meetings and this court is satisfied with the said reasons and grounds.

Under the current circumstances and legal regime, the company cannot convene a physical meeting due to its large membership of about 2,073. The Public Health (Control of COVID-19) Rules 2020 banned public gatherings and meetings.

Secondly, the Public Health rules also banned flights in and out of the country and yet some of the members are foreigners and are not able to travel in the country for the meeting.

In the circumstances, **Bank of Baroda (Uganda) Limited** is granted leave to convene the Annual General Meeting for the year ended 31st December 2019 by electronic means, subject to obtaining a prior no-objection from Uganda Securities Exchange and complying with all applicable notices issued under the Uganda Securities Exchange Listing Rules 2003 and the law.

The costs of this application are to be met by the company.

It is so ordered.

Dated, signed and delivered be email and whatsApp at Kampala this 17th day of July 2020

**SSEKAANA MUSA
JUDGE**