

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(CIVIL DIVISION)
MISCELLANEOUS CAUSE NO. 226 OF 2021
IN THE MATTER OF THE UGANDA LAW SOCIETY ACT CAP 276
AND
IN THE MATTER OF AN APPLICATION BY PHEONA NABAASA WALL-
MEMBER AND THE PRESIDENT OF UGANDA LAW SOCIETY

BEFORE HON. JUSTICE SSEKAANA MUSA

RULING

This is an application is brought under section 98 of the Civil Procedure Act and Sections 9, 15, 16, 20 of Uganda Law Society Act and Order 52 r 1 & 3 of the Civil Procedure Rules.

The applicant was represented by Counsel *Mr. Ogwang Sam and Mr. Asiimwe Anthony* in presence of *Mr. Mularila Faisal Umar* (Council Member-Central Region) and *Mr. Okwalinga Moses* (Chief Executive Officer-Uganda Law Society)

The applicant is seeking orders that;

1. ***The Uganda Law Society*** be granted leave to convene/ conduct an Annual General Meeting for the year ended 31st December 2020 by electronic means, subject to complying with all applicable notices under the Uganda Law Society Act and the regulations therein.
2. ***The Uganda Law Society*** be granted leave to conduct Executive Council Elections by electronic means, subject to complying with all applicable notices under the Uganda Law Society Act and the regulations therein.

3. The costs of the application be provided for.

The main grounds for this application are set out in the affidavit of *Ms. Pheona Wall Nabasa*;

1. The applicant is a female Ugandan of sound mind, an Advocate of the Courts of Judicature and President of the Uganda Law Society.
2. That the Uganda Law Society is a body set up by an Act of Parliament with objectives among others, protect and assist the public in Uganda in all matters touching, ancillary or incidental to the law, promote constitutionalism, rule of law and good governance.
3. That the Uganda Law Society Act requires that the Uganda Law Society conducts an Annual General Meeting annually as soon as convenient after the 31st day of December and this year's Annual General Meeting is scheduled for the 12th September 2021, however it is not physically possible on the 10th September due to the several restrictions and Standard Operating Procedures (SOPs) in place to curb the spread of COVID-19 as imposed by Government and the Public Health(Control of COVID-19) Regulations, 2020 which limit among others large gatherings.
4. That the Uganda Law Society Act mandates the Executive Council to account to the membership annually which can only be done at the Annual General Meeting but currently is not possible save with leave of this honourable court.
5. That the Uganda Law Society Act also requires the Uganda Law Society Act to constitute an Executive Council annually which is usually elected at the Annual General Meeting, however due to the current lockdown as well as several restrictions and standard operating procedures(SOPs) in place to curb the spread of COVID-19 as imposed by Government and the Public Health(Covid-19)Regulations, 2020 which limit among others

large gatherings, it is will be impossible to hold physical elections involving over 3500 members convening from all over the country which will create a leadership vacuum at the Uganda Law Society.

6. That the Uganda Law Society Act and all regulations therein do not have a provision for the conducting of a virtual and Electronic Annual general Meeting and Executive Council elections and accordingly the Uganda Law Society can only convene this year's Annual General Meeting and Executive Council elections with leave of this Honourable court.
7. That the Uganda Law Society convening an Annual General Meeting and conducting an executive council election is of great concern to the membership and the general public and affects the very core of our constitutionality, rule of law and good governance which require urgent redress by this Honourable court.
8. That this application for leave to convene an Annual General Meeting and conduct an executive council elections seeks to address a lacunae within the Uganda Law Society Act and regulations therein, it accordingly discloses exceptional circumstances of peculiar urgency and importance.

This court entertained the matter and allowed the applicant's counsel to make brief oral submissions 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; it is currently impractical to convene a physical meeting of Uganda Law Society in the usual manner as envisaged under the Uganda Law Society Act owing to the various restrictive measures imposed by the government of Uganda under the Public Health Act, Cap 281, to combat the spread of Corona virus [(Covid-19)].

The measures imposed by the Government of Uganda to control the spread of the corona virus include a ban on public meetings, and the effect of this measure is that the members of the legal fraternity cannot convene in-person at a designated venue to attend to business ordinarily conducted in the Uganda Law Society's Annual General Meetings.

The court must be satisfied by the capacity of the applicant to bring such an application, then the obligation under the law to hold such a meeting and the impracticability of holding a meeting or conduct of elections of executive council in usual or ordinary manner.

The **Uganda Law Society Act** provides for the constitution of the council, General meetings, voting and convening & procedure at the general meetings as follows;

Section 9;

For the proper management of the affairs of the society, there shall be a council consisting of a president, a vice president, the Attorney General, the Solicitor general (either of whom may be elected president), a secretary, a treasurer and four other members, all of whom, other than the Attorney General and the Solicitor General, shall be elected annually by the society in the general meeting.

Section 15

The council shall as soon as convenient after the 31st day of December in each year, and may at any other time or times at the discretion of the council, convene a general meeting of the society.

Section 17

- (1) *At every general meeting of the society, every member present shall have one vote, and the Chairperson of that meeting shall also have a casting vote.*
- (2) *A member not present at a general meeting may on any resolution before that meeting vote by proxy in such a manner and subject to such conditions as may be prescribed.*

Section 20

The manner of convening general meetings of the society, and the procedure at the general meetings, shall, subject as expressly provided in section 15 to 19, be as may from time to time be prescribed or determined by the council.

The purpose of the above provisions is to enable the council to conduct its business and apply such manner or procedure to overcome practical difficulties so that the society's affairs can be conducted where they might otherwise be stymied. See ***Ghalib Hussain & Abdul Sattar v Wycombe Islamic Mission and Mosque Trust Limited & Tasawar Iqbal [2011] EWHC 971(Ch)***

The Uganda Law Society Act should be interpreted liberally and purposively to allow the council to convene meetings or to meet in any manner in which all members can communicate with one another rather than physically meet to 'hear each other'. Therefore the words 'convene a general meeting' or 'every member present' should always be flexible to allow online meetings of the society.

The Act must be interpreted in a manner which gives effect to the intention of the legislature in some social and other conditions which obtain today. Therefore, statutes are to be interpreted as always speaking. The meaning of the original intent of a statute may be of limited value as the application and interpretation will develop in the course of implementation and over time its meaning and application may alter. See ***McCartan Turkington Breen v Times Newspapers Ltd [2001] 2 AC 277 at 292/296; Balkissoon Roodal v The State [2003] UKPC 78; Mathew v State of Trinidad & Tobago [2004] UKPC 33; R v Ireland [1998] AC 147***

The applicant as a president of Uganda Law Society has set out the reasons and grounds why the society is unable to hold an Annual General Meeting in the usual manner (physical manner) as it has always been done and also the physical voting as it has always been done. The justification to move away from the normal procedures is to enable the society comply with the prevailing circumstances of covid 19 and stop the spread of the deadly virus amongst its membership if they were to meet physically or vote physically and this court is satisfied with the said reasons and grounds.

Under the current circumstances and legal regime, the Society cannot convene a physical meeting due to its large membership of about 3,500. **The Public Health (Control of COVID-19) Rules 2020** banned public gatherings and meetings.

The outbreak of corona disease (Covid-19) has crippled free movement and meetings. The government has issued guidelines, directives or Statutory Instruments to stop any gatherings and the best public health practice is to avoid unnecessary physical meetings of any form.

It is therefore clear that Covid-19 social distancing measures have fast tracked the evolution of the virtual Annual general Meeting. The traditional social interactions of member meetings have been limited and physical meetings are no more.

Virtual general meetings are gaining wider acceptance in Uganda and the World at large in light of the Covid-19 pandemic where companies or Associations have sought order to conduct virtual meetings. In this case, it is impracticable to convene a meeting in the ordinary manner provided and it is equally impracticable to conduct the meeting or conduct elections (voting) in the usual manner they have always been held and conducted.

In the circumstances, **Uganda Law Society** is granted leave to convene and conduct the Annual General Meeting for the year ended 31st December 2020 and Elections of Executive council by electronic means (for example, via a combined online/web broadcast and mobile phone platform) or other virtual platforms provided by the Society Secretariat by which all eligible members shall attend, participate and vote electronically.

It is so ordered.

Dated, signed and delivered be email and whatsApp at Kampala this 09th day of August 2021

***SSEKAANA MUSA
JUDGE***