

TANZANIA / JUDGMENT

20141125 TZHC Dar es Salaam

COURT
TZHCDECIDED
25 November 2014

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IN THE HIGH COURT OF TANZANIA (DAR ES SALAAM DISTRICT REGISTRY) AT DAR ES ALAAM
MISC. CIVIL CAUSE No. 55 OF 2011 IN THE MATTER OF THE COMPANTES ORDINANCE CAP. 212
AND IN THE MATTER OF COMPULSORY WINDING UP OF CASEMENTS AFRICA LIMIJ'ED BY
BOARD OF DIRECTORS OF CASEMENTS AFRICA LIMITED PETITIONER
Versus; CASEMENTS AFRICA LIMITED DEFENDANT

JUDGMENT

22/08/2012 & 26/11/2014. Utamwa, J. In this petition the petitioner, BOARD OF DIRECTORS OF CASEMENTS AFRICA LIMITED moves this court for winding up the company, CASEMENTS AFRICA LIMITED. The petition is made under sections 275, 279 (1) (d) and (e), • Page 1 of 3 I I 281 of the Companies Ordinance; Cap. 212 R. E. 2002 and rules 3 (1), 25 and 26 of the Companies (Winding up) Rules of 1929 and any other enabling law. The petitioner is represented by Ms. Hamida Sheikh learned counsel. According to the petition, the company is a limited liability company incorporated under Cap. 212 on the 15 th day of July, 1966 and its registered office is at plot No. 18C, Nyerere Road, Dar es salaam. The principal objecti:ves of the company according to clause 3 of the memorandum and articles of association are to carry on various businesses, and its authorized share capital is Tanzanian Shillings 200, 000, 000/= divided into 40, 000, 000 ordinary shares of 5/- each. The shareholders of the company are currently Clavis Company Ltd, English Finance and Development Company Ltd and Aluminium Africa Ltd. The grounds for the winding up are the following;

1. The company has not been in operation since 1993 and has lain dormant all the time.
11. It is running at loss following the costs of maintaining it without any production and the only remaining Director is incapable of maintaining it.
- m. The shareholders and Directors have not held a single annual meeting or board meeting since 1994. 1v. It has not filed its statutory returns and audited accounts since 2005.
- v. Mr. Zacharia Akilimali Henry Kesi the only Director who had been active in the company passed away in 2005 and1 the rest of the Directors are non-residents of old age of 65 years and are not interested in the company. The petitioner thus prayed for the following reliefs;
- a. That the company may be wound up by the court under the provisions of Cap. 212.

- b. An order for voluntary winding-up of the company
- c. That Hamida Hassani Sheikh be appointed as the liquidator.
- d. That all the debts including outstanding government taxes of the respondent company (if any) be paid.
- e. Costs of this petition be borne by the respondent company. Page 2 of 3
- f. Any other relief that the court may deem just for and equitable. The petition was verified by an affidavit of one Sharad Nagesh Salgar, one of the Directors of the company. It was also accompanied by various other documents of the company supporting the contents of the petition. The documents included; the Annual Return up to 31 st December, 2004 and the 1:1- memorandum and articles of association. The notice of winding up was advertised in the Guardian Newspaper dated 10 th October, 2011 but no objection was lodged in court. The learned counsel for the petitioner also filed her affidavit and written submissions in an exparte proof to support the petition. I have considered the petition and all the accompanying documents. I have also ~.onsidered the affidavit and the written submissions by the learned counsel for the petition supporting the petition. I have also considered the fact that the petition is riot objected by any other person despite the advertisement of the notice. I have therefore, no reason to refuse the prayed winding-up of the petition. The law also is tb the effect that, this Court is empowered to wind up a company where it is of the opinion that it is just and equitable to do so, see the decision of this court in the case of Ernest Andrew Chitalika v. Francis Philip Temba [i996] TLR 287. I · consequently grant the petition as prayed. It is accordingly ordered. JHK. UTAMWA JUDGE 25/11/2014 Page 3 of 3

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