

TANZANIA / JUDGMENT

RULING OF CHEN KAI VS HU TAO AutoRecovered print

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THE UNITED REPUBLIC OF TANZANIA JUDICIARY IN THE HIGH COURT OF TANZANIA MBEYA
SUB - REGISTRY AT MBEYA MISCELLANEOUS CIVIL CAUSE NO. 28765 OF 2024 CASE
REFERENCE NO. 202411131000028765 CHEN KAI
PETITIONER VERSUS HU TAO 1ST RESPONDENT
HU YAN 2ND RESPONDENT SALINA DRINKS
COMPANY LTD3RD RESPONDENT

RULING

11th February & 25th March 2025 NONGWA, J. Salina Drinks Company Limited (third respondent) a limited liability company incorporated under the Laws of Tanzania (the company). It was formed for conducting businesses of soft drink factory. It started with share capital of 500,000,000 divided into 100 shares each worth 5,000,000/-Tanzania shillings. It has shareholders, the petitioner Chen Kai holds 40 shares, the first respondent Huo Tao 40 shares and second respondent, Hu Yan has subscribed 20 shares. The three shareholders were the first directors of the company. The petitioner also served as secretary of the company. 1 The petitioner has filed this petition for unfair prejudice under section 333(1)(3)(a)(b)(c) of the Companies Act, Cap 212. In the petition and affidavit verifying the petition, the petitioner alleges that he is the founder of the company who developed the business concept and welcomed the first and second respondent by doing all that was necessary to make the company operative. That he was in managerial roles of the company since its inception until in June 2023 when was un- procedurally blindsided and removed from visibility and participation in operation of the company. Further that there was no notice to call the meeting and minutes of the said meeting. That the first and second respondents have conducted the affairs of the third respondent unfairly and prejudicial to his interest by receiving payment of sales of the company products into their personal bank accounts and paying to third party. That handling the company's revenue and funds into their personal accounts violates their role as directors and is contrary to articles of association. Further that the first and third respondents has threatened to sell his shares and the company in large. It is also alleged that there is misappropriation of company's fund which has led to loss of business. He sees the acts by the first and second respondents as contravention of the procedure, law and unfairly prejudicial to his 2 interest requiring intervention of this court. He prays for the

following orders;

- i. A declaration that 3rd respondent affairs has been and still are conducted in a manner which is unfairly prejudicial to the interests of petitioner. ii. A declaration that the conduct of the 1st and 2nd respondent as directors and shareholders of the 3rd respondent are null and void to the extent explained in this Petition. iii. An order for the 3rd respondent to convene annual general meeting of the members including the petitioner from the year 2021 to 2024 as prescribed by law and Articles of the Company. iv. An order for Valuation of the 3rd respondent Properties by the competent and registered valuer to ascertain the current value of the properties owned.
- v. A refund by the 1st and 2nd respondent of all sums of money advanced by the Petitioner to the 3rd respondent and invested in the establishment of all assets, properties and business of the 3rd respondent as it shall be established by the Company valuation report. 3 vi. An order of general damages to be assessed by this Honourable Court. vii. Any other relief(s), as this Court deem fit to grant. The respondents resist the petition through the answers to the petition and affidavit verifying answer to the petition. The respondents have stated the petitioner was removed in his positions in accordance with the law. They have stated he was rightly removed after they noticed he was misappropriating the company's funds. That the complained acts which is said to be unfair prejudice has not been conducted by them. When the petition came for hearing the petitioner was represented by Mr. Frank Yona learned counsel and the respondents has the service of Mr. Ntegwa Mpinyagwa, also learned counsel. Parties choose to dispose the petition by filing written submissions. Written submissions of the petitioner is drawn and filed by Ms. Gladness Luhwago. Taking the ball rolling, Ms. Gladness stated, from the pleadings three issues, which I note are not objected by Mr. Ntegwa were pertinent one, whether the petitioner was removed from directorship position by following procedure. Two, whether the acts alleged to be committed by the first and second respondents amounts to unfair 4 prejudice against the petitioner affects interest of the petitioner. And three, whether the petitioner is entitled to reliefs so claimed. Submitting in the raised issue, Ms. Gladness stated it was not in dispute that when the company was incorporated, the petitioner served the role of director and secretary. He submitted procedure for removal of director is governed by section 193 of the Companies Act, Cap 212 and it may be due to dissatisfaction or misconduct with directorship performance in the company. That for removal to be valid under section 193 there must be special notice of the intended resolution to remove the director, notice must be served to the said director and three the said director must be afforded right to be heard during the resolution in the meeting. He referred the court to the case of Korduni Meliyo vs Arusha Aviation Services Limited, Misc. Civil Cause No. 816 of 2017

[2023] TZHC 18124 (16 June 2023; TanzLII) in support of the argument. Counsel contended the petition was un-procedurally removed as there was no prior notice and did not participate in the said meeting. She discounted annexure SA-4 to the affidavit verifying answers to the petition for not showing if it was served to the petitioner. Further that extract of

members meeting does not reflect reason for removal of the petition from the role of directorship. Counsel referred to annexure C1 5 memorandum and articles of association, clause 74 which gives reason for removal of director. Further submission was that no meeting for removal of the petitioner was conducted as minutes of members meeting was not attached. He said burden of proof was upon the respondents to establish that the meeting was conducted and followed procedures adding that annexure SA-4 did not salvage that anomaly. She supported the argument with the case of Gabriel Ponsiani Makundi vs S.E.C (East African) Co. Ltd & 4 Others, Misc. Commercial Cause No. 65 of 2023 [2024] TZHCComD 14 (23 February 2024; TanzLII) in which the court insisted procedures to remove director to be adhered to. She added the petitioner was denied right to be heard before his termination in directorship role. In the second issue whether the act complained amount to unfair prejudice, counsel refers to acts explained under paragraph 16, 17, 18, 20, 21, 22 and 23 of the petitions and 10, 12, 13, 14, 15, 16, 17, 19, 20, 21 and 22 of the affidavit verifying the petition as those constituting unfair prejudice against the interest of the petition. She submitted a significant amount of money has been paid in the first respondent personal accounts held by CRDB 1052818736700, 62910006793 and 6 62910029578. Further that sell of shares of the company has been advertised in media platform and referred to annexure C7. Ms. Gladness went on to state that the amount of 188,800,00/= has been paid from the bank account to Shen Jing who is the wife of the second respondent. She said this was not contested by the respondent as they only put the petitioner to prove. It was submitted that the allegation that it was the petitioner who was transferring company's money to his casino is not here or there and that annexures SA-5 was not authentic and a bank statement. Counsel contended that the petitioner has proved the allegation which is supported by annexures attached and the complained acts are prejudicial to interest of the petitioner in the management of the company by the first and second respondents. On the third issue, counsel submitted the petitioner was entitled to orders sought. In rebuttal, Mr. Ntegwa choose to start with objection to the affidavit verifying the petition. First that it contained prayers, conclusion and arguments, reference was made to paragraph 5, 9 and 17 of the affidavit verifying the petition. He submitted those paragraphs violates the rule of affidavit and made reference to the case of Jacqueline 7 Ntuyabaliwe Mengi & Others vs Abdiel Reginald Memgi & Others, Civil Application No. 332 of 2021 [2022] TZCA 748 (1 December 2022; TanzLII) to support the preposition. He thus prayed the said paragraphs be expunged. The second point is that the affidavit contains false statement, counsel referred to paragraph 10, 11, 12, 13, 14, 16, 17, 18, 19, 20 and 22 of the affidavit verifying the petition. He said the statement that the petitioner personally paid TZS 579,961,961.994 for importation of machinery and equipment and tax of 135,135,135.483 was false and need no any consideration by the court. The argument was grounded on the fact that the company has shares divided to shareholder. He argued the affidavit containing falsehood information is liable to be expunged and relied on the cases of Lilian Richard vs Idd Hamis, Civil Application No. 27208 of 2021 [2024] TZCA 549 (12 July 2024; TanzLII) and Benson Ndile vs Abel Mwakifwange, Civil Application No. 495/06 of 2023 [2024] TZCA 544 (10 July 2024;

TanzLII). On merits of the petition on issue of removal of director, Mr. Ntegwa submitted, section 193 of the Companies Act was complied with by referring to annexure SA-3 under paragraph 7 of the answers to the petition and annexure SA-4 to affidavit verifying answers to the petition. 8 That the company has only three members thus discussing the issue of service of such notice was absurd. In fact, counsel submitted the petitioner was served with notice but did not attend. That the petitioner deprived himself right to be hard as notice was given to him personally. Mr. Ntegwa went on to submit as the petitioner refused to attend, the remaining members convened the meeting under section 136(c) of the Companies Act. Further that the petitioner could have used means of proxy but did not. Counsel distinguished the case of Korduni Meliyo (supra) cited by the petitioner's counsel, though did not state how. Further submission was that now days the use online registration system to notify the registrar of any changes in the company, he referred to annexure SA-1 and SA-2 of the answers to the petition and affidavit verifying answers to the petition and stated if there was any procedural flaw the system would have rejected the changes. On argument that there was no notice and agenda for removal of director, Mr. Ntegwa said annexure SA-5 contains agenda of the meeting one being removal of the petitioner from managerial position. He made a tabulated figures of the transactions showing there was mismanagement and misappropriation of the company's fund by the 9 petitioner during his managerial tenure. He added that during directorship of the petitioner there was no audit or record rather high debts to TRA. On failure to provide minutes of the meeting, Mr. Ntegwa submitted it was upon the petitioner to prove and burden could not be shifted to the respondents, that he who alleges must prove. The counsel distinguished the case of Gabriel Ponsian Makundi (supra) and in turn argued it was the petitioner whose acts constituted unfair prejudice to the respondents. On the second issue whether the complained acts constitute unfair prejudice, Mr. Ntegwa submitted that the statements contained in paragraphs 16, 17, 18, 20, 21, 22 and 23 of the petition and 10, 12, 13, 14, 15, 16, 17, 19, 20, 21 and 22 of the affidavit verifying the petition were falsehood and therefore the affidavit was incurable. Once again cited the case of Lilian Richard vs Idd Hamis (supra). Further submission was that annexures C3, C4, C5, C7 and C8 to the petition and affidavit verifying the petition cannot be used as evidence as they lack authenticity. He added all statements in the affidavit are fabricated contending there is no intention to sell shares and the company and there was no evidence that payment was made to 10 Chen Jing. Counsel argued that the petitioner has failed to prove the allegation under section 110 of the Evidence Act and referred to the case of Sultanali Javer t/s Mwaloni Filling Station vs NSK Oil & Gas Limited, Civil Appeal No. 330 of 2021 [2024] TZCA 738 (15 August 2024; TanzLII). To him annexure SA-5 proved mismanagement of fund of the company by the petitioner and it was a genuine bank statement. Concluding in this issue counsel submitted through the contract to purchase company machines, banks statements, notice of convening meeting, resolution and BRELA search they proved the matter against the petitioner. In the last issue of reliefs, it was submitted the petitioner is still member of the company and is entitled to dividends. Thus, was not entitled to reliefs claimed. Having considered rival submission and record of the petition, I will

address the petition based on the issues framed by the petitioner's counsel. Before I get to those issues, I will first address the issue of competence of affidavit verifying the petition raised by Mr. Ntegwa in his reply submission. I start by emphasizing that parties are bound by their own pleading and no party is allowed to depart from what he pleaded. See 11 James Funke Ngwagilo vs Attorney General [2004] TLR 161. In this case it is the petition and answer to the petition this constitute pleading whereas affidavit verifying the petition together with and affidavit verifying answers to the petition are evidence. See Mohamed Abdillah Nur Others vs Hamad Masauni Others, Civil Appeal No 630 of 2023 [2024] TZCA 129 (26 February 2024; TanzLII) also cited by Mr. Ntegwa. At hand the petitioner filed his petition 13th November 2024 and the respondents filed answer to the petition & affidavit verifying answer to the petition on 18th November 2024. It was until on 10th December 2024 when order of hearing the petition by filing submission was made. All along Mr. Ntegwa kept silence only to raise it in his reply written submission. That is not allowed and in fact goes against the order of court to file written submission in support or opposition of the petition. This is not the first time the court is faced with tendency of parties to raise new issue in their submission, in the case of Q-bar Limited vs Commissioner General Tanzania Revenue Authority, Civil Appeal No. 163 of 2021 [2022] TZCA 381 (16 June 2022; TanzLII) the court stated; 12 'With respect, we find the submissions by both counsel for the parties to be misconceived. This is so because, in his written submissions, the appellant's counsel instead of clarifying issues alleged in the grounds of appeal, he introduced new issues on points of law. We find this to be irregular as, in a written submission, a party to the appeal is expected to only explain and clarify the grounds of appeal before the Court and not to introduce new matters based on new views. We need to emphasize the principle that litigants should not be allowed to change their goal posts when new views are discovered in the course of litigation, unless expressly permitted by the law.' [Emphasize added] In the present petition, Mr. Ntegwa has raised new points in his reply written submission and without leave of the court. Even assuming counsel is right though not, the alleged points are devoid of merits, in fact he failed to explain how the statement 'crave the leave to form part of this affidavit' can be said to be a prayer. Cases relied by him on this area are not close to the raised point. On false statement, the same are matters to be proved by looking on evidence available, the reason to built up his stand counsel referred to annexures to the pleadings, at that juncture, ceased to be an objection on point of law. I therefore, although it was raised un-procedurally, dismiss the same. 13 Coming to the petition, Unfair prejudice is provided for under Section 233(1)-(3) of the Companies Act. Under that provision the law allows the director, shareholder or a member of a company to petition to the court whenever they see or feel that the affairs of the company are unfairly conducted to the detriment of that member, shareholder, director or the company itself to petition for unfair prejudice proceedings. Starting with removal of the director, Ms. Gladness has submitted that the procedures was not followed as required by section 193 of the Companies Act. Particularly that there was no notice served to the Petitioner, the meeting was not convened and was not given right to be heard. Mr. Ntegwa in reply stated the respondents followed the

procedures. From the available evidence, the removal of the petitioner as director was not disputed by the respondents only that they were justified to do so based on the petitioners' acts during his tenure. Section 193(1)(2)(3) of the Companies Act [Cap 212 R.E. 2002] provides that; 193(1) A company may by ordinary resolution remove a director before the expiration of his period of office, notwithstanding anything in its articles or in any agreement between it and him: 14 Provided that, this subsection shall not authorise the removal of a director holding office for life at the commencement of this Act, whether or not subject to retirement under an age-limit by virtue of the articles or otherwise.

- (2) Special notice shall be required of any resolution to remove a director under this section or to appoint somebody instead of a director so removed at the meeting at which he is removed, and on receipt of notice of an intended resolution to remove a director under this section, the company shall immediately send a copy thereof to the director concerned, and the director (whether or not he is a member of the company) shall be entitled to be heard on the resolution at the meeting.
- (3) Where notice is given of an intended resolution to remove a director under this section and the director concerned makes with respect thereto representations in writing to the company (not exceeding a reasonable length) and requests their notification to members of the company, the company shall, unless the representations are received by it too late for it to do so.' The above tells that directors may be removed from office before expiration of their tenure in office by ordinary resolution. Section 193 (2) of the Act requires special notice to be issued to remove the director. And Section 193(3) of the same Act provides that if the special notice (notice for special resolution) is given the director to be removed should 15 make representation. That is, s/he ought to be afforded the right to be heard. The possibility of removing a director from office is provided for not only under the Companies Act but also in the company's Memorandum and Articles of Association annexure C1 under paragraph 74(d) that by Extraordinary resolution the director may be removed from office. There was varying argument on who has to prove the removal of the petitioner from directorship, Ms. Gladness has submitted that burden of proof shifted to the respondents, on adversary it was submitted it was the petitioner to prove his allegation. It is the principle of law embodied under section 110 of the Evidence Act, Cap 6 that he who alleges anything in his favour must prove. However, burden of proof in civil suit is not static it kept oscillating depending on the alleged fact. In Yusufu Selemari Kimaro vs Administrative General & Others, Civil Appeal No. 266 of 2020 [2022] TZCA 306 (24 May 2022; TanzLII) the court stated; 'In civil cases, the onus of proof does not stand still, rather it keeps on oscillating depending on the evidence led by the parties and a party who wants to win the case is saddled with the duty to ensure that the burden of proof remains within the yard of his adversary.' 16 At hand the petitioner alleged was not given notice of the meeting, the respondents replied was given and attached annexure SA4 which Ms. Gladness has submitted it has no proof that it was served to the petitioner. On those circumstance Knowledge of the notice and conduct of the meeting was within the respondents. The petition having denied to be served with notice calling the meeting could not prove it for negative cannot be proved. On this, the distinguished authors

of commentaries in the works of Sarkar's Laws of Evidence, 18th Edition, M.C. Sarkar, S.C. Sarkar and P. C. Sarkar, published by Lexis Nexis states the burden of proving a fact rests on the party who substantially asserts the affirmative of the issue and not upon the party who denies it for a negative is incapable of proof. See African Banking Corporation T. Ltd vs T-Better Holdings Co. Ltd, Civil Appeal No. 207 of 2017

- [2024] TZCA 165 (6 March 2024; TanzLII). In his submission Mr. Ntegwa has submitted the petitioner was served personally, annexure SA-3 does not show if it was served to the petitioner and by which means. Through paragraph 77 and 80 of annexure C1 are evidence that meeting by director must be by written notice for not less than three days. It can only be waived if the director attends. Going by paragraph 42 of exhibit C1 notice of meeting must not be less than twenty-one days. The respondent in their evidence did not state by which means notice to the petitioner was served. Service of notice is provided under clause 121, 123 and 124 of annexure C1 (articles of association) which reads; '121. Any notice or document may be served by the Company upon any Member, either personally or by sending it through the post in a prepaid letter, envelope or wrapper, addressed to such Member at his registered place of address.
122. Any Member whose registered place of address is not in Tanzania may from time to time notify in writing to the Company address in Tanzania which shall be deemed his registered place of address within the meaning of the last preceding Article. If he shall not have named such an address, he shall not be entitled to any notices.
123. Any notice or document sent by post shall be deemed to have been served within three days of the day following that on which the letter, envelope or wrapper containing the same is posted, and in providing such service it shall be sufficient to prove that the letter, envelope, or wrapper containing the notice was properly stamped, addressed and put into the Post Office.' [Emphasize added.] 18 I borrow leaf from my brother Mkeha, J. in the case of Steven Mahuza vs Stefen Nagy & Another, Commercial Case No. 115 of
- 2021) [2022] TZHCComD 348 (2 November 2022; TanzLII) in which he observed that; Under section 193 (2) of the Companies Act, for removal of a director to be considered proper, a special notice of a resolution to remove a director or to appoint a person instead of the director so removed at the meeting is required from the members of the company. On receipt of special notice of a resolution to remove a director, the company should send a copy of such notice to the concerned director and the said director is entitled to be heard on the resolution at the meeting. In view of DW1, this procedure was not adhered to before the Plaintiff was terminated as a director. Therefore, the 2nd Defendant did not follow the required legal procedures for removing the Plaintiff from Directorship.' The company has three members and all served as directors, what is missing in the answer to petition and affidavit verifying answer to the petition is proof of service of notice for convening meeting to remove the petitioner from the role as director and secretary nor there is any minutes of meeting. Without prove of service of the notice to the petitioner, it cannot be said, the meeting to remove the petitioner from his position followed the law. In my view, the

procedure of his 19 termination was irregular. It will remain to be so as there is no evidence to show that the termination of his directorship and secretary role was in accordance with the law. Thus, the first and second respondents have irregularly removed the petitioner from his position as the director and secretary. The petitioner is thus still a lawful director and secretary of the company unless and until when the lawful procedure of his removal is properly followed. Embarking to the second issue whether the acts of the first and second respondents prejudicial to the petitioner. Ms. Gladness has submitted in affirmative one that the company sales are paid in person accounts of the first and second respondents; two, that payment from the company accounts are made to third parties; three, that the first and second respondents has advertised to sell his shares and finally that there is mismanagement and misappropriation of company's fund. On the other hand, Mr. Ntegwa discounted those statements for being falsehood and without any proof. He said annexure are not authentic. Further that it is the petitioner who misappropriated the company's fund before his removal. 20 I choose to start with the argument that it is the petitioner who misappropriated the funds of the company, this argument has been raised in the improper forum. If the respondents had any claim with the petitioner ought to have raise cross petition and not to argue their own grievances in the petitioner's case. It is elementary law in this jurisdiction that substantive relief can only be granted if pleaded be by way main suit or counterclaim/cross petition and the court will only grant relief which has been prayed for. See *Melchiades John Mwenda vs Gizelle Mbaga & Others*, Civil Appeal No. 57 of 2018 [2020] TZCA 1856 (13 November 2020; TanzLII). In the answer to the petition the respondents prayed to dismiss the petition with costs. Therefore, arguments found at page 6 to 8 of the respondents' submission that the petitioner misappropriated the company funds and constitutes unfair prejudiced is misconceived. Whether the acts complained is unfair prejudice. Section 233(1) of the Companies Act provides; 'Any member of a company may make an application to the court by petition for an order on the ground that the company's affairs are being or have been conducted in a manner which is unfairly prejudicial to the interests of its members generally or of some part of its members (including at least himself) or that 21 any actual or proposed act or omission of the company (including an act or omission on its behalf) is or would be so prejudicial. If the court is satisfied that the petition is well founded, it may make such interim or final order.' What amount to unfair prejudice is not statutory defined but it was explained in the case of *Ebrahimi vs Westbourne Galleries* [1973] AC 360, 379, Lord Wilberforce stated; 'The courts need not look exclusively at a company's constitution when deciding the nature of the obligations undertaken by its participants. What is important is the diving of effect to the full set of terms and understandings on which it has been agreed the company will operate, be they expressed or implied. Thus, for example, where there is a reasonable expectation that all shareholders will participate in the company's management, exclusion from management may be considered unfairly prejudicial, and a remedy will be available under s 241. This was the case in *Diligenti v RWMD Operations Kelowna Ltd* where the court concluded that, in such circumstances, there are 'rights, expectations and obligations inter se', which are not submerged into the company structure, and these rights are enjoyed

by a member as part of his status as a shareholder in the company ... Although [the applicant's] fellow members may be entitled, as a matter of strict law, to remove him as a director, for them to do so in fact is unjust and inequitable, and is a breach of the equitable rights which he in fact possesses as a member.' From the above, a member of the company, by virtue being a member, regardless of the number of shares held by him, has the right to be involved in the affairs of the company to which he is a member. Exclusion of a member or some members from participation in the affairs of the company, would therefore amount to gross violation of the very basis and understanding upon which their association was built. If a member is not involved in the affairs of the company, it amounts to betrayal of the members' collective pact and pledge of the inclusion, involvement and participation in the affairs of their company. I am inspired by what was observed by my sister Agatho, J. (then was) in *Elly Mwaijande vs Petros Majinyori & 4 Others*, Misc. Commercial Cause No. 18 of 2023 [2023] TZHCComD 369 (10 November 2023; TanzLII) when she stated; 'It should further be emphasized that a phrase company's affairs imply multitude of things and need to be understood within the context in which it is considered. It may include decision reached by directors, removal or exclusion of a member from participation in the management of the affairs of a company and any actions taken by directors contrary to articles of association of a company may amount to unfair prejudice. Also, it should be noted that the interests of a member are not limited to his strict legal rights under the constitution of the company but can take into account wider equitable consideration such as the underlying understanding between the parties.' Going by the MEMART annexure C1 there is only three members of the company and all were put in the directorship role, the petitioner also serving as secretary. Thus, exclusion of one member may be regarded as unfair prejudice. As it is clear that the petitioner has been removed from being a director and secretary of the company, and completely pulled out of the management as agreed, this alone constitutes act prejudicial to the interest of the petitioner. There is argument that it was the petitioner who acted prejudicial to others during his directorship. This sounds strange because the company had three directors, meaning decision of the company was being made by all of them and that is what is provided under clause 70 of annexure C1, articles of association of the company. Other allegation like sale of the company being credited into personal accounts of the first and second respondent as reflected in exhibit C7, the same did not constitute proof that it was from sell of the company's products. Regarding annexure C8 and C9 there is no evidence how is connected with the company. Apart from that are electronically generated data there is no affidavit/certificate or any evidence of authentication of the said data message as required by Section 18 of Electronic Transactions Act. There is no evidence as to its reliability, integrity. Thus exhibit C8 and C9 is a document whose authenticity is doubtful as rightly complained by the respondents. Taking all circumstances and available evidence leave alone the petitioner's removal from his roles which has been proved to be un-procedural, other acts complained have not been proved by the petitioner. Last is reliefs, I have considered the appropriate reliefs in the circumstances of the present case, guided by section 233(3) (a) (b) and

(c) of the Companies Act, I do hereby make the following orders;

1. It is declared that the first and second respondents' actions to remove the petitioner from the role of director and secretary have contravened the law, and articles of association of the third respondent hence, unfairly prejudiced the petitioner's rights.
2. The petitioner is reinstated in his role of director and secretary of third respondent. 25
3. It also ordered that, the board of directors of the third respondent convene a meeting as required by the articles of association.
4. The Petition is granted with costs V.M. NONGWA JUDGE 25/3/2025 Dated and Delivered at Mbeya this 25th March 2025 in presence of Messrs Kapimpiti Mgalula and Mr. Michael Mwaipasi learned counsels for the Petitioner and Respondents respectively through Virtual Court. V.M. NONGWA JUDGE 26

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