

UGANDA / JUDGMENT

**Jainson Cables India Private Limited
v Akvo International Limited
(Miscellaneous Application 2421 of
2024) [2025] UGCA 80 (27 March 2025)
[2025] UGCA 80**

COURT

Court of Appeal of Uganda

BEFORE

Mutesi, J

CASE / FILE NUMBER

Miscellaneous Application 2421 of 2024

Source: ulii.org · Research copy typeset by Esheria. Not court-issued or certified.

**THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT KAMPALA
(COMMERCIAL DIVISION)**

**MISCELLANEOUS APPLICATION NO. 2421 OF 2024 ARISING FROM CIVIL SUIT NO.
1146 OF 2024**

JAINSON CABLES INDIA PRIVATE LTD :::::::::::::::::::::::::::::::

VERSUS

AKVO INTERNATIONAL LTD :::::::::::::::::::::::::::::::

(Before: Hon. Justice Patricia Mutesi)

RULING**Background**

The Applicant brought this application by notice of motion under Section 98 of the Civil Procedure Act and Order 6 Rules 8, 10 and 30, Order 9 Rules 6, 10 and 11(2) and Order 52 Rules 1 and 3 of the Civil Procedure Rules for orders that:

- 1. The Defence filed by the Respondent on 29th October 2024 in Civil Suit No. 1146 of 2024 be struck out for offending Order 6 Rules 8, 10 and 30 of the Civil Procedure Rules.

- 2. Judgment be entered on the liquidated sums of money claimed.
- 3. Costs of the application be granted to the Applicant.

Briefly, the grounds of this application are that:

- 1. The Respondent filed a written statement of defence in Civil Suit No. 1146 of 2024 generally denying the Applicant's claims in the plaint.
- 2. The Defence was also an evasive denial of the claims in the plaint.
- 3. The Defence did not disclose a reasonable defence to the claims in Civil Suit No. 1146 of 2024.
- 4. Judgment should be entered on the liquidated sum.
- 5. It is in the interest of justice that this application is granted.

The application is supported by the affidavit of Mr. Nishant Mulchandani, the Deputy General Manager in charge of Business Development in the Applicant. Mr. Mulchandani stated that the Applicant instituted Civil Suit No. 1146 of 2024 ("the main suit") for recovery of USD 144,028 said to be a business debt from the Respondent. He stated that the plaint set out the Applicant's claims in clear, concise and unambiguous terms and had all the relevant annexures attached.

Mr. Mulchandani also said that the Respondent later filed a defence to the main suit. In that defence, the Defendant generally denied the claims in the plaint and alleged that it had paid off the entire debt in full by 28th June 2024, albeit without annexing proof of payment. It is on that basis that the Applicant now believes that the Defence should be struck off the record.

The Respondent opposed the application through the affidavit in reply of Mr. Kisuule Raymond, its Operations Manager. Mr. Kisuule said that the application is grossly misconceived and that it is an abuse of the court process. He affirmed that the Defence clearly and specifically responded to the claims in the plaint by affirming that the Respondent had fully repaid the debt. He also added that the omission to annex "proof" to the Defence is not a ground for striking out the Defence. He averred that evidence of payment will be led at the trial of the suit.

Issues arising

- 1. Whether the Respondent's Defence should be struck off the record.
- 2. Whether the Applicant is entitled to summary judgment.
- 3. What reliefs are available to the parties.

Representation and hearing

At the hearing of the application, the Applicant was represented by Mr. Pecos Mutatiina of M/S Kasirye, Byaruhanga & Co. Advocates. The Respondent was represented by Mr. Basiime Armstrong M/S Basiime & Co. Advocates. Counsel argued the application through written submissions. I have carefully considered those submissions, the laws and authorities cited and all the other materials on the record while deciding this application.

Determination of the issues

Issue 1: Whether the Respondent's Defence should be struck off the record.

Order 6 Rules 8 of the Civil Procedure Rules provides:

"It shall not be sufficient for a defendant in his or her written statement to deny generally the grounds alleged by the statement of claim, or for the

plaintiff in his or her written statement in reply to deny generally the grounds alleged in a defence by way of counterclaim, but each party must deal specifically with each allegation of fact of which he or she does not admit the truth, except damages."

In relevant part, Order 6 Rule 10 of the Civil Procedure Rules further provides:

"When a party in any pleading denies an allegation of fact in the previous pleading of the opposite party, he or she must not do so evasively, but answer the point of substance ..."

It is trite that what is expected of the defendant is to furnish particulars where he is making a positive averment and to plead facts on which he seeks to defend himself to avoid surprises during trial. (See *Namdashanker Manishanker Joshi v Uganda Sugar Factory Ltd*, Civil Appeal No. 16 of 1968). Additionally, it is trite that a defendant is expected to respond to the main allegations which form the foundation of the suit and need not respond to each and every fact pleaded by the plaintiff. (See *Byaruhanga Africano v Uganda Electricity Distribution Co. Ltd*, HCMA No. 67 of 2022).

Having fully appreciated these principles in light of the merits of this application, it is my considered finding that this application does not have any merit.

In para. 4 of the plaint, the Applicant averred that, on 24th July 2023, it entered into an Agreement for the supply of submersible cables worth USD 205,755 to the Respondent. Under the terms of the Agreement, it was agreed that 30% of that amount was to be an advance payment and that the balance of 70% would be paid in 90 days from the date of the Bill of Lading. The Respondent paid the 30% and the Applicant delivered the goods to it. However, the Respondent has since failed to pay the balance hence the main suit.

In para. 4 of its Defence, the Respondent averred that it was not indebted to the Plaintiff in any way because it had paid the debt in full as at 28th June 2024. The Respondent further averred that, as a result, its officials were even surprised to learn of the filing of the main suit. The Respondent maintained that any financial loss and, or, inconvenience allegedly suffered by the Applicant was self-inflicted.

Contrary to the Applicant's averments, the Defence was not general or evasive at all. It is clear, from the above summation of the Defence, that the Respondent

aptly responded to the points of substance in the plaint by denying indebtedness and stating that it had fully paid the debt as at 28th June 2024. As counsel for the Respondent rightly submitted, the omission to annex proof of payment to the Defence is not fatal since it is at the trial that such evidence is typically expected to be presented.

This finding renders Issue 2 as framed above moot as the Respondent's Defence is deemed proper under the law.

Consequently, this application fails and I make the following orders:

- I. This application is dismissed.
- Costs of this application shall follow the outcome of Civil Suit No. 1146 ii. of 2024.
- The parties are directed to file and serve their respective trial bundles iii. and witness statements by 28th April 2025. Scheduling of the suit shall proceed on 6th May 2025 at 10:00am.

roa deuté

Patricia Mutesi JUDGE \$(27/03/2025)\$

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://ulii.org/akn/ug/judgment/ugca/2025/80/eng@2025-03-27>

CASE PAGE <https://chat.esheria.ai/case-law/uganda/jainson-cables-india-private-limited-v-akvo-international-limited-miscellaneous-application-2421-of-2024-2025-ugca-80-27-march-2025-unknown-topic-unkn>

Prepared on 13 October 2026 · Esheria