

UGANDA / JUDGMENT

Pegasus Technologies Limited v Women Initiative for Rural Development Organisation and Others (Miscellaneous Application No. 28 of 2024) [2025] UGCommC 157 (3 April 2025)

[2025] UGCommC 157

COURT

Commercial Court of Uganda

BEFORE

Ocaya, J

CASE / FILE NUMBER

Miscellaneous Application No. 28 of 2024

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5 THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT KAMPALA  
[COMMERCIAL DIVISION] MISCELLANEOUS APPLICATION NO. 28 OF 2024  
[ARISING FROM CIVIL SUIT NO. 489 OF 2020]

PEGASUS TECHNOLOGIES LIMITED ] APPLICANT

VERSUS

| 15 | 1.<br>WOMEN INITIATIVE FOR RURAL | ] | |

| ---|-----|---|-----|

| | DEVELOPMENT ORGANISATION | ] | |

| | 2.<br>RIDGE INFRASTRUCTURE LIMITED | ] | |

| | 3.<br>NAMULUNDU MEDICAL CENTRE | ] | |

| | 4.<br>KATATUMBA SAFARIS (U) LTD | ] | |

| 20 | 5.<br>GREAT WOLF HOTEL LTD | ] | |

| | 6.<br>DOSHI HARDWARE (U) LTD | ] | |

| | 7.<br>DALALAAT SAFARIS (U) LTD | ] | |

| | 8.<br>ANGEL PLUS CLEANING SERVICES LTD | ] | |

| | 9.<br>KADODO 256 NDAMIYA SAFARIS LTD | ] | |

| 25 | 10. BAMWENDA BERNARD | ] | |

| | 11. AKUMU JUSTINE | ] | |

| | 12. NAKALEMA SARAH | ] | RESPONDENTS |

| | 13. UWEERA AGNES | ] | |

| | 14. MAKELA AIHNE ASAGUMAJA | ] | |

| 30 | 15. OTHENGHO MAKANGA PATRICK | ] | |

| | 16. ESTHER CHOSEN MAKANGA | ] | |

| | 17. RUGIRWA KATATUMBA | ] | |

| | 18. KAKUTA GEOFFREY | ] | |

| | 19. NADIA SHAKIRA | ] | |

| 35 | 20. SIMON PETER MUTABULE | ] | |



| 5 | 21. GERALD MUTABULE | ] |

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| | 22. MUKASA WASSWA ROGERS | ] |

| | 23. KATAMBA GEOFFREY | ] |

| | 24. NAMARA SHEENA NDAMIYA | ] |

**10 Before: Hon. Justice Ocaya Thomas O. R**

## **RULING**

### **Background**

- 15 The Applicant brought this application by way of Chamber summons for the following reliefs:
- a.) An order for discovery on oath of all payment receipts for the services in respect of which the alleged transactions done by the Respondents' alleged clients – the cardholders referred to in the Forensic Investigation Report – on the Flexi-pay 20 platform in the period between January 2018 and August 2019.
- b.) An order for discovery on oath of the Respondents' tax returns showing the incomes received and declared to the Uganda Revenue Authority for the period between January 2018 and August 2019 when the Respondents' services were ostensibly paid for by the cardholders referred to in the Forensic Investigation Report on the Flexi-25 Pay Platform.

- c.) An order for discovery on oath of the 3rd Respondent's client register and relevant admission forms/documents indicating the medical details in respect of which the 3rd Respondent allegedly provided medical services to its alleged clients – the cardholders referred to in the Forensic Investigation Report who allegedly paid for 30 the said services on the Flexi-Pay Platform.
  - d.) An order for discovery on oath of the 4th, 5th, 7th and 9th Respondents' respective client registers indicating the names, addresses, country of origin, purpose of the visit, date of arrival and departure of their alleged clients for the period between January 2018 and August 2019 during which their alleged clients ostensibly consumed their 35 services in Uganda and paid for them on the Flexi-Pay platform.
  - 5 e.) An order for discovery on oath of the booking details and travel itinerary for all the clients that allegedly used the specific tour and travel (safari) related services of the 4th, 7th, and 9th Respondents between January 2018 and August 2019.
  - f.) An order for discovery on oath of the booking, payment, and accommodation details of all the clients that allegedly utilized the services of the 5th Respondent between 10 January 2018 and August 2019.
- g.) An order that the Respondents pay the costs of this Application.

### **The Applicant's case:**

The Applicant asserts that it is a company incorporated in Uganda and engaged in the 15 business of software development, offering financial and billing solutions. The Applicant is also the plaintiff in HCCS 489 of 2020 [Pegasus Technologies Limited v Women Initiative For Rural Development Organisation & Ors] from which this application arises. The Applicant contends that it was contracted by Stanbic Bank Uganda Limited to provide e-commerce aggregation services so as to allow for sub-merchants like the 1st-9th Defendants in the main

20 suit to sign up on the Flexi Pay platform and receive online payment options for the sale of their goods and services.

Between February 2016 and February 2018, the Applicant was approached severally by representatives from Women Initiative for Rural Development Organization, Ridge 25 Infrastructure Limited, Namulundu Medical Centre, Katatumba Safaris (U) Limited, Great Wolf Hotel Limited, Doshi Hardware (U) Limited, Dalalaat Safaris (U) Limited, Angel Plus Cleaning Services Limited, and Kadodo 256 Ndamiya Safaris (the 1st – 9th Defendants in the Main Suit) seeking to use the Applicant's software to aggregate the online payments for their goods and services using the Applicant's Flexi Pay platform. Consequently, the Applicant 30 contracted the defendants in Civil Suit No.489 of 2020 and signed them up to FlexiPay platform as sub-merchants.

Sometime in 2018, the Bank identified suspicious online transactions on the accounts of the 1st – 9th Defendants in the main suit and hence conducted an investigation which disclosed 35 a number of fraudulent transactions on several dates done by Bamwenda Benard, Akumu

- 5 Justine, Nakalema Sarah, Uwera Agnes, Makela Aigbe Asagumaja, Othengho Makanga Patrick, Esther Chosen Makanga, Rugirwa Katatumba, Kakuta Geofrey, Nadia Shakira, Simon Peter Mutabule, Gerald Mutabule, Mukasa Wasswa Rodgers, Katamba Geoffrey, and Namara Sheena Ndamiya (the 10th – 24th Defendants in the main suit) using the various merchant codes given to the 1st – 9th Defendant companies in which they are Directors.
- 10

As a result of an investigation commissioned by the Applicant into the said suspicious transactions, a report was issued by ABS Consulting Group (the Forensic Investigation Report) detailing findings that the Defendants in Civil Suit No. 489 of 2020 had jointly and severally perpetrated fraud by illegally accessing the card details of several visa cardholders 15 and used the same to trigger a number of transactions in their favor amounting to UGX. 2,303,169,441 (Two Billion, Three Hundred and Three Million, One Hundred and Sixty-Nine Thousand, Four Hundred and Forty-One Shillings).

The above-mentioned amount accrued as a result of chargebacks by the card issuer (Visa) 20 following reports from the cardholders that suspicious online card transactions had been executed by the Defendants in Civil Suit No. 489 of 2020 through the Flexi-pay platform. The Applicant was obliged to indemnify Stanbic Bank for the aforementioned sum which had been charged back by Visa and commenced Civil Suit No. 489 of 2020 – Pegasus Technologies Limited versus Women Initiative for Rural Development Organization, Ridge Infrastructure

25 Limited and 23 Others to recover the same from the said merchants.

As part of their defense, the aforementioned Defendants in Civil Suit No. 489 of 2020 alleged that any money withdrawn from the accounts of the cardholders referred to in the Forensic Investigation Report accrued from genuine payments made by the Respondent's 30 customers/clients, and not through fraudulent transactions on the Flexi-Pay platform.

### **Based on the Respondent's defense that their services were consumed in Uganda by the**

cardholders referred to in the Forensic Investigation Report, there is sufficient evidence that the documents sought by the Applicant are within the Respondents' power and have not

35 been disclosed to this Court.

- 5 The aforementioned documents relate to and are relevant to the resolution of matters in issue in the main suit namely, whether the cardholders referred to in the Forensic Investigation Report indeed consumed the Respondents' services in Uganda as alleged by the Respondents in their Defense.

- 10 The 1st 9th Respondents, as independent companies engaged in various ventures typically store the information in the documents sought by the Applicant, either as a legal obligation or industry practice in their respective industries, and as such, there is sufficient evidence that the documents are in the possession, custody or power of the Respondents.
- Response by the 4th, 5th, 17th 15 and 18th Respondents: The said Respondents opposed the application and contended that
  - (a) The present application is a fishing expedition.
  - (b) The Applicant has not proved ownership of the said monies or that it indemnified Stanbic Bank Uganda Limited ["SBU"]
- 20 (c) The 5th Respondent company has been filing returns with Uganda Revenue Authority ["URA"] stating its income and expenses and thus there is no need for an order of discovery.

Response by the 3rd and 15th Respondents: The 3rd and 15th Respondents opposed this 25 application and contended that:

- (a) The Application is a sham, is omnibus and the dates of the receipts and transactions are not disclosed.
- (b) The Applicant controls the flexi-pay system and any documents sought are under the control of the Applicant and not the 3rd and 15th Respondents.
- 30 (c) The present application is a fishing expedition intended to enable the Applicant find evidence in support of its frivolous suit.

The rest of the parties did not file replies.

## Representation

The Applicant was represented by M/s Signum Advocates. The 4th, 5th, 17th and 18th 35 Respondents were represented by Wassanyi & Co. Advocates. M/s Pralex Advocates



represented the 2nd, 13th and 14th Respondents. The 3rd 5 and 15th Respondents were represented by M/s Balyejusa & Co. Advocates. The rest of the parties were not represented.

## Evidence and Submissions

The Applicant led evidence by way of an affidavit in support of the application deposed by 10 Ronald Azairwe, the Applicant's Managing Director. The 17th Respondent deposed an affidavit on her behalf and also in her capacity as director of the 4th Respondent. The 15th Respondent deposed an affidavit in his own capacity and also as director of the 3rd Respondent. The 19th Respondent filed an affidavit in reply in her capacity and also as director of the 5th Respondent. The 18th Respondent filed an affidavit in his personal capacity

15 and in his capacity as a director of the 5th Respondent.

Only the Applicant filed written submissions. The rest of the parties did not file written submissions despite court giving directions for the said filings at the hearing on 11 October 2024 and 15th November 2024.

## Decision

Section 22(a) of the Civil Procedure Act provides thus:

"Subject to such conditions and limitations as may be prescribed, the court may, at any time, either of its own motion or on the application of any party—

- 25 (a) make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts and the discovery, inspection, production, impounding and return of documents or other material objects producible as evidence;"
- 30 **Order 10 Rule 12** provides thus:

"(1) Any party may, without filing any affidavit, apply to the court for an order directing any other party to the suit to make discovery on oath of the documents, which are or have been in his or her possession or power, relating to any matter in question in the suit.

5 (2) On the hearing of the application the court may either refuse or adjourn the hearing, if satisfied that the discovery is not necessary, or not necessary at that stage of the suit, or make such order, either generally or limited to certain classes of documents, as may, in its discretion, be thought fit; except that discovery shall not be ordered when and so far as the court shall be of opinion that it is not necessary either for disposing fairly of the suit or for

10 saving costs."

By virtue of Order 10 rule 12 of \*The Civil Procedure Rules\*, any party may, without filing any affidavit, apply to the court for an order directing any other party to the suit to make discovery on oath of the documents, which are or have been in his or her possession or 15 power, relating to any matter in question in the suit. The court therefore may, at any time during the pendency of any suit, order the production by any party to the suit, upon oath, of such of the documents in his or her possession or power, relating to any matter in question in the suit, as the court may think right; and the court may deal with the documents, when produced, in such manner as may appear just. Upon hearing such application, the court may

20 either refuse or adjourn the hearing, if satisfied that the discovery is not necessary, or not necessary at that stage of the suit, or make such order, either generally or limited to certain classes of documents, as may, in its discretion, be thought fit; except that discovery will not be ordered when and so far as the court is of opinion that it is not necessary either for disposing fairly of the suit or for saving costs. See **Dresdner Bank Ag. v. Sango Bay Estates**

**25 Ltd (No. 3) [1971] 1 EA 326, Dresdner Bank Ag. v. Sango Bay Estates Ltd (No. 4) [1971] 1 EA 409) and Simbamanyo Estates & Anor v Equity Bank Uganda Limited & Ors HCMA 853/2024**

Discovery is intended to accomplish the following results: (1) to give greater assistance to 30 the parties in ascertaining the truth and in checking and preventing perjury; (2) to provide an effective means of detecting and exposing false, fraudulent and sham claims and defences; (3) to make available, in a simple, convenient and inexpensive way, facts which otherwise could not be proved except with great difficulty; (4) to educate the parties in advance of trial as to the real value of their claims and defences, thereby encouraging settlements; (5) to

35 expedite litigation; (6) to safeguard against surprise; (7) to prevent delay; (8) to simplify and  


5 narrow the issues; and, (9) to expedite and facilitate both preparation and trial. Discovery tends to make a trial less a game of tactics and surprise and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent. It is a tool so useful in guarding against the chance that a trial will be a lottery or mere game of wits and the result at the mercy of the mischiefs of surprise.

10 See **Simbamanyo Estates & Anor v Equity Bank Uganda Limited & Ors HCMA 853/2024.**

In the exercise of its discretion, the Court shall take into account the proportionality of the discovery to the needs of the case, considering the significance of the issues in controversy, the quantum of the claim, the respective ability of the parties to access relevant information,

- 15 the resources available to the parties, the materiality of the discovery in resolving the issues in dispute, and whether the burden or cost of the proposed discovery outweighs its potential benefit.
- Discovery extends to any non-privileged document that is relevant to the matters in issue in 20 the proceedings, including the existence, description, nature, custody, condition, and location of such documents, provided that they appear reasonably calculated to lead to the discovery of admissible evidence. The process of discovery enables a party to obtain facts and information from the opposing party for the purpose of facilitating the preparation and presentation of its case. It is intended to ensure that a party has access to relevant 25 information necessary for the effective prosecution or defense of its claims. See **Dresdner Bank Ag. v. Sango Bay Estates Ltd (No. 3) [1971] 1 EA 326 and Dresdner Bank Ag. v. Sango Bay Estates Ltd (No. 4) [1971] 1 EA 409) and Simbamanyo Estates & Anor v Equity Bank Uganda Limited & Ors HCMA 853/2024.**
- 30 Relevance

The application must reasonably be calculated to lead to the discovery of admissible evidence. For an order of discovery to be made, the document or information must first be shown to be relevant since evidence is inadmissible if it is not relevant. To be considered relevant, the document or information must have any tendency to make the existence of any

35 fact of consequence to the suit more or less probable than it would be without the evidence.



- 5 A document is "material" if it is being offered to prove an element of a claim or defence that needs to be established for one side or the other to prevail. The applicant must show a reasonable expectation that the material sought will aid in resolution of the suit. Discovery rules are given broad and liberal treatment such that even very weak material evidence will be deemed relevant if it has any tendency to prove or disprove a fact in issue. This helps
- 10 explains why so often an order of discovery will be made in respect of even the very weakest of evidence, so long as it does not reach the speculative level. Such evidence is often ruled admissible at this stage "for whatever it is worth," since after all, it is for the Court ultimately to judge the sufficiency or weight of the relevant evidence. See **Loflin v. Martin** 776 S. W.2d 145 (1989), **Simbamanyo Estates & Anor v Equity Bank Uganda Limited & Ors** HCMA 15 853/2024

In the long-standing dicta in **Compagnie Financiere du Pacifique v Peruvian Guano** (1882) Co 11 QBD 55 court defined what it is for a document to be relevant for purposes of discovery thus;

20 "It seems to me that every document relates to the matters in question in the action, which not only would be evidence upon any issue, but also which, it is reasonable to suppose, contains information which may—not which must—either directly or indirectly enable the party requiring the affidavit either to advance his own case or to damage the case of his adversary. I have put in the words 'either directly or indirectly,' because, as it 25 seems to me, a document can properly be said to contain information which may enable the party requiring the affidavit either to advance his own case or to damage the case of his adversary, if it is a document which may fairly lead to a train of inquiry"

See also **Medtronic Inc v Guidant Corp** Civil File Nos. 00-1473 (MJD/JGL), 00-2503 (MJD/JGL) (D. Minn. May. 25, 2004)

The Applicant contends that the documents sought to be discovered are relevant in so far as they clarify/confirm the accurateness of the defendants' defence in the main suit. It follows that, in so far as the Applicant seeks the adducement of the documents, they seek to use them to impeach/discredit the defence adduced by the defendants therein. The Applicant 35 contended that the relevance of the documents sought would help show whether indeed the 5 persons in respect of whom the said debits were undertaken were in Uganda at the time of the said debits, or if not, that the same are either fictitious persons or that the said persons did not undertake the said debits.

Whereas the Respondents contended that the said documents are not relevant, the 10 Respondents did not show why they asserted so. In the circumstances, court is of the considered view that this requirement is made out.

Additionally, it was contended since the 4th and 5th Respondent have been filing returns, this application is not necessary. In my view, the question as to whether the 4th and 5th

15 Respondents have been filing returns is not what is material or in issue in the main suit, but the contents of those returns *\*vis a vis\** the defence in the main suit. It follows that this court finds the said documents are relevant to the determination of the main suit.

## Existence

- 20 In **Simbamanyo Estates & Anor v Equity Bank Uganda Limited & Ors HCMA 853/2024** Court laid out the standard for proof of the existence of a document subject to discovery. The court held thus:
- "The applicant only needs to show that there is a sufficient *\*prima facie\** basis for believing the evidence sought exists, it is material and relevant to the issues at the trial. The basis 25 can be advanced by argument based on the facts contained in the pleadings filed in the suit, or by evidence supporting the application. The Court will grant the application even without affidavit evidence, where it considers that it is based on a plausible view of the pleadings as filed by both parties. This is because ironically discovery permits a more complete later testing of hearsay during the trial, such that the lack of adversarial testing
- 30 becomes less of a concern at this stage."

There is no evidence to suggest that the said documents do not exist. For the 5th and 17th Respondents, it was admitted that such returns were being filed, indicating that the same exist. The Applicant demonstrated that the said documents exist and I have not seen 35 sufficient evidence to the contrary. It follows that this ingredient is made out.



## 5 Confidentiality

Any party who seeks to exclude documents from discovery on basis of exemption or immunity must specifically plead the particular privilege or immunity claimed and provide evidence supporting such claim. The court must then determine whether an in-camera inspection is necessary, and, if so, the party seeking protection must segregate and produce

- 10 the documents to the court. According to Order 10 rule 19 (2) of The Civil Procedure Rules, where, upon an application for an order for inspection, privilege is claimed for any document, the court may inspect the document for the purpose of deciding as to the validity of the claim of privilege. See **Mutesi v Attorney General HCMA 19/2016**

- 15 This court notes that in accordance with **Sections 55 and 55(3) (a)** of the Tax Procedure Code Act, the tax returns sought are confidential. Additionally, this court notes that some of the information sought would contain protected information under the Data Protection and Privacy Act. No party pleaded an immunity covering and/or affecting the above documents.
- 20 In **Science Research Council v Nassé (1979) IRLR 485** the House of Lords, considering whether confidential documents could be the subject of discovery held thus:

"There is no principle in English law by which documents are protected from discovery by reason of confidentiality alone. But there is no reason why, in the exercise of its discretion to order discovery, the tribunal should not have regard to the fact that 25 documents are confidential, and that to order disclosure would involve a breach of confidence. In the employment field, the tribunal may have regard to the sensitivity of particular types of confidential information, to the extent to which the interests of third parties (including their employees on whom confidential reports have been made, as well as persons reporting) may be affected by disclosure, to the interest which both employees

30 and employers may have in preserving the confidentiality of personal reports, and to any wider interest which may be seen to exist in preserving the confidentiality of systems of personal assessments."

See also **O'Callaghan v Mahon [2007] IESC 17**, **R v. Chief Constable of West Midlands. Ex p. Wiley [1995] 1 A. C. 274**

### **5 In Alfred Crompton Amusement Machines Ltd v Customs and Excise Commissioners (No. 2) [1972] 2 QB 102 court held that**

"Confidentiality' is not a separate head of privilege, but it may be a very material consideration to bear in mind when privilege is claimed on the ground of public interest."

10 In **Independent Newspapers (Ireland) Ltd v Murphy (2006) IEHC 276** the court considered the balancing approach between observing the confidentiality of documents while permitting disclosure when necessary. The Court held thus:

"[I]t seems to me that the balancing of the rights involved also requires the application of the doctrine of proportionality. To that extent, it seems to me to be appropriate to 15 interfere with the right of confidence to the minimum extent necessary consistent with securing that there be no risk of impairment of a fair hearing."

It must be noted that the confidential character of a document is not, by itself, a bar to its production by way of discovery. This is because, in any case, the court can take measures to 20 guard the confidentiality of documents while also ensuring that the said document is produced. Accordingly, it follows that the confidentiality of the documents alone per se is not sufficient to prevent the present application.

## Prior Request

- 25 It is trite law that prior to an application for discovery, the applicant ought to request discovery of the said documents and once refused, they may proceed to file an application such as the present one and ought to attach the discovery request which was unheeded to. See **Simbamanyo Estates v Equity Bank Uganda Limited & Ors HCMA 853/2024, AKT Project Management & Ors v DFCU Bank HCMA 2046/2023**
- 30

However, in spite of that being so, I have not found any basis for the proposition that the said noncompliance with the requirement to make a prior discovery request automatically makes an application for discovery fatally defective. This is more so in circumstances such as the instant case where, from the responses of the Respondents, the said discovery request would

35 not have been allowed anyway. Within the framework of Article 126 of the Constitution, the 5 role of the court is to resolve matters substantively, rather than unduly insist on compliance with procedures and processes. In the circumstances, I find that such non-compliance is not fatal to the Applicant's application.

## Fishing Expedition/Imprecision of Documents Sought to be Discovered

- 10 The Respondents contended that the documents sought to be requested were not precisely indicated. For instance, it was contended that the nationalities of the named persons were not indicated, the relevant periods of time were not indicated and so on. Accordingly, the Respondents contended that the present application was a fishing expedition.
- 15 The position of the law is that the court will decline an application for discovery that is a fishing expedition, especially where the documents requested are vague and ambiguous. See **John Kato v Muhibauer AG & Anor HCMA 175/2011, Anguba Peter v Housing Finance Bank HCMA 434/2022.**
- 20 It is the role of a party who claims an application is a fishing expedition to prove the same. The Respondents did not show how the said discovery was a fishing expedition. In my considered view, the applicant has clearly identified the documents sought and shown their relevance to the main suit. Additionally, it should be noted that the said documents are not sought to bolster the applicant's claim per se, but to test the correctness of the Respondents'
- 25 respective defences.

As was held in **Night Nagujja v Namuwonge Agnes & Ors HCMA 1878/2021**, it is not enough for a party to throw unsubstantiated allegations at the court, hoping that the court will fill in the gaps, speculate or use its powers to separate the hay from the chaff. It is trite

30 law that courts base their decisions on evidence and not assumptions, abstractions or innuendos. See Also **Centenary Bank v Federation Of Association Of Uganda Exporters Limited & Ors HCCS 474/2016**, **Luswata Mary Veronica v Exim Bank HCMA 1118/2023**

I therefore have not found anything to show that the present application is a fishing 35 expedition.



## 5 Custody/Control

A party applying for discovery ought to show that the said documents are in the control of the Respondents. See **Simbamanyo Estates & Anor v Equity Bank Uganda Limited & Ors HCMA 853/2024**

- In the present case, the 4, 5th, 17th 10 and 18th Respondents contended that the documents sought are uploaded in the Flexipay system and are in the control of the Applicant. A review of the documents sought show that they constitute (a) tax returns (b) payment receipts, (c) customer lists, (d) customer KYC information. There is nothing to show that this information was being uploaded in the Flexipay system. The above information is internal company
- 15 information that is typically within the custody of the Respondent. Accordingly, this court returns the finding that the applicant has demonstrated to the requisite standard that the said documents are in the Respondents' custody.

## Accordingly, I find that the applicant's application has reasonably identified the documents

20 sought to permit discovery, contrary to the contentions of the Respondents. The upshot of the above is that the Applicant's application succeeds.

## Costs

As a rule of law, costs ordinarily follow the event and a successful litigant receives his or her 25 costs in the absence of special circumstances justifying some other order. Where the successful party has been guilty of some misconduct, an order of costs may not be granted. See **Section 27(2) Civil Procedure Act**, **Harry Ssempe v Kambagambire David HCCS 408/2014**, **Iyamuleme David vs. AG SCCA NO.4 of 2013**, **Kwizera Eddie v Attorney General SCCA 1/2008**.

However, where the application for discovery would have been necessary had the applicant made a prior request for discovery, the applicant would not be entitled to costs notwithstanding that they prevailed in the application. See **UDB v Muganga Construction (1985) HCB 35**, **AKT Project Management & Ors v DFCU Bank HCMA 2046/2023**

- 5 In the instant case, this application is against the backdrop of the main suit which is still live in this court, and whose determination will show whether these proceedings would have been necessary in the first place since, should the applicant not prevail, this application though successful, would not have needed to be filed. Accordingly, this court orders that costs shall abide the outcome of the main suit however should the Applicant/Plaintiff be
- 10 successful they will only be entitled to only 60% costs having not made a prior request for discovery.

## Conclusion

In the premises this application succeeds with the following orders:

- 15 a. An order for discovery on oath of all payment receipts for the services in respect of which the alleged transactions done by the Respondents' alleged clients – the cardholders referred to in the Forensic Investigation Report – on the Flexi-pay platform in the period between January 2018 and August 2019.
- b. An order for discovery on oath of the Respondents' tax returns showing the incomes 20 received and declared to the Uganda Revenue Authority for the period between January 2018 and August 2019 when the Respondents' services were ostensibly paid for by the cardholders referred to in the Forensic Investigation Report on the Flexi-Pay Platform.
- c. An order for discovery on oath of the 3rd Respondent's client register and relevant 25 admission forms/documents indicating the medical details in respect of which the 3rd Respondent allegedly provided medical services to its alleged clients – the cardholders referred to in the Forensic Investigation Report who allegedly paid for the said services on the Flexi-Pay Platform.
- d. An order for discovery on oath of the 4th, 5th, 7th and 9th Respondents' respective 30 client registers indicating the names, addresses, country of origin, purpose of the visit, date of arrival and departure of their alleged clients for the period between January 2018 and August 2019 during which their alleged clients ostensibly consumed their services in Uganda and paid for them on the Flexi-Pay platform.
- 5 e. An order for discovery on oath of the booking details and travel itinerary for all the clients that allegedly used the specific tour and travel (safari) related services of the 4th, 7th, and 9th Respondents between January 2018 and August 2019.
- f. An order for discovery on oath of the booking, payment, and accommodation details of all the clients that allegedly utilized the services of the 5th Respondent between 10 January 2018 and August 2019.
- g. An order that the Respondents comply with all the discovery orders in (a)-(f) above within a period of thirty (30) days from the date of this order.

- ### Source & reproduction note

Prepared on 13 October 2026 · Esheria