

**IN THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
AT KAMPALA
COMMERCIAL COURT DIVISION
HCT-00-CC-MA-052-2013**

NAKAWA MARKET VENDORS ASSOCIATION..... APPLICANT

VERSUS

CITY COUNCIL OF KAMPALA RESPONDENT

BEFORE: HON MR. JUSTICE W.M. MUSENE

RULING:

This application under O. 1 r. 13, O.6 rules 19 and 20 of the Civil Procedure rules and S. 98 of the Civil Procedure Act to substitute Kampala City council the Respondent with Kampala Capital City Authority as the successor under Kampala Capital City Authority Act.

The Applicants, M/s Nakawa Market Vendors Association Ltd was represented by Mr. Justice Semuyaba, while Mr. Bernard Mutyaba Ssempala for the respondent was absent despite having attended court on 20.2.2013 and prayed for adjournment which was granted. The hearing of the application on 28.2.2013 therefore proceeded ex-parte as Mr. Mutyaba Ssempala did not turn up and neither did the

respondent's representatives. No communication was forthcoming as to why they were absent. O.1 r. 13 of the civil Procedure rules provides”

“O. r. 13 Any application to add or strike out or substitute a plaintiff or defendant may be made to the court at any time before trial by mention or summons or at the trial of the suit in a summary manner.”

Mr. Ssemuyaba for the applicant referred this court to paragraph (4) of the affidavit in support of the Application sworn by Mr. Muwesigye Francis. It was the effect that M/s Nakawa Market Vendors Association Ltd have filed HCCS No. 135 of 2010 to demand that the defendant / Respondent allow it to manage Nakawa Market.

And under para (7) of the said supporting affidavit, it is averred that **Kampala City Council** be substituted with Kampala Capital City Authority as the successor under the **Kampala Capital City Authority Act**. And there was no affidavit in reply to rebut what has been stated, which in any case is the fact. Kampala Capital City Authority took over from Kampala City Council, including all assets and liabilities. And since Civil Suit No. 135 of 2010 which was against City Council of Kampala is still pending, I find no prejudice in substituting the Respondents/ Defendant with Kampala Capital City Authority, so that the suit is heard and determined on the merits. In the premises, I do hereby allow the application and allow for the substitution as prayed. Costs to be in cause.

Judge

5.3.2013

Mr. Ssemuyaba for Applicant absent

Mr. Tulinamasiko Gordon, Director of the Plaintiff Company present

Ojambo Court Clerk present

Court ruling read out in court

Justice W. M. Musene

JUDGE