

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA AT JINJA**

**MISC. APPLICATION NO. 052 OF 2013  
(ARISING FROM CIVIL SUIT NO. 18 OF 2013)**

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**KYENDA GODFREY.....APPLICANT**

**VERSUS**

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**SBI INTERNATIONAL HOLDINGS N.U LTD.....RESPONDENT**

**BEFORE: THE HON. JUSTICE GODFREY NAMUNDI**

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**RULING**

This Application is brought under section 22 and 98 CPA and Order 10 Rules 1, 2, 4, 6, 8  
20 and 24, seeking orders that Interrogatories for examination of the Respondent be delivered  
to the said Respondent.

This Application is premised on the allegation that the Respondent in the written  
statement of defence in the head suit merely denied all averments in the Plaint and that it  
25 is necessary to establish the facts in the suit to save Court's time when the trial  
commences.

In the affidavit in support of the application, the applicant avers that he is the authorized  
agent of Bugiri District Local Government to collect Local Revenues from the said Local  
30 Governments Quarry which is operated by the Respondent.

That with the total denials of the Respondent that the Applicant is not the recognised agent  
of Bugiri District Local Government to levy and collect revenues, it is necessary for it to  
answer to the Interrogatories to prevent it from being taken by surprise when the suit  
35 comes up for hearing.

To the application the Applicant has attached a list of 48 Interrogatories to be answered by the Respondent/Defendant.

- 5 The Respondent has filed an affidavit in reply in which the deponent therein, a Claims Manager with the Defendant/Respondent makes several averments.

One that the Respondents intend to issue a 3<sup>rd</sup> party Notice to Uganda National Roads Authority.

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Further that this is not a proper suit for grant of Interrogatories and that the Applicants have filed "*Fishing Interrogatories*".

- 15 It is also averred that all issues in controversy in the Civil suit can be disposed of at the trial and that the said Interrogatories will instead delay and increase costs of the suit.

Unfortunately the said affidavit in reply is rather general in nature and does not respond specifically to the questions raised in the 48 interrogatories and instead introduces the issue of a 3<sup>rd</sup> party Notice to UNRA.

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It would be good practice for an affidavit to be detailed enough without being argumentative in responding to issues raised by the opposite party.

- 25 Infact it has been held elsewhere that where a matter is based on affidavits, the court should be availed sufficient information therein as to enable the Court to make a decision even if the parties/counsel make no submission.

- 30 Be that as it may, both counsel made oral submissions basically reiterating what is in their pleadings. Counsel for the Respondent has argued that the interrogatories will only add to further delays and costs.

It has also been submitted that since the 3<sup>rd</sup> party will be served with the Interrogatories, it will add to further delay.

- 5 The rejoinder to this submission is that the plaint is detailed and the interrogatories will help Court ascertain matters technical sought in the technical audit.

Finally that the Respondent is a limited liability company which can procure the making of proper interrogatories from its officials, servants or agents who have knowledge of the  
10 facts intended to be examined on.

There was no response or submission in respect of interrogatories 33 to 48 so I take it that they are admitted/conceded. Order 10 CPR regulates the use of Interrogatories in civil proceedings.

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Under Order X r.1 (b) thereof, the Court will only allow those interrogatories which relate to the matters in question or deemed relevant to the matters in question.

Under rule 7 thereof the Court will not allow those interrogatories that are vexatious,  
20 unreasonable or that they are profligate, oppressive or unnecessary. In **National Social Security Fund Board of Trustee Vrs. Kario Farms Ltd & Others (2006) EA 240**, it was observed that in the process of presenting Interrogatories, the party interrogating may put questions for the purpose of extracting from his opponent information as to the facts material to the questions between them when he has to prove on any issue raised or for  
25 purposes of securing admissions as to those facts in order that the expense and delay may be saved. The authority above relied on **Omar Vrs. Gordhanbhai & Another (1974) EA 518**.

In deciding whether the order should be made, the Court is to be guided by:

- 30 (1) Whether the Interrogatories are necessary for disposing of the suit fairly or

(2) For saving costs Ref: **Sebastian R. D'Souza & Others Vrs. Charles Clemente Ferrao (1959) EA 1000**

I have looked at the Plaintiff and the application as well as the submissions.

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The prayers in the Plaintiff are for declarations which essentially have among others the effect that the Defendant is liable to pay local Revenues for its quarry's activities at Namukongequarry sites.

10 There is also a prayer (d) for an order for a technical Audit and valuation for the stone aggregates and stone hardcore extracted by the Defendant from the site from 1<sup>st</sup> August 2012 until the lapse of the Plaintiff's contract.

15 In my view the audit can only be carried out after the Court orders so in its Judgment at the end of the trial.

The interrogatories in respect of that particular prayer cannot therefore be said to be necessary for the disposal of the suit.

20 I would accordingly find Interrogatories 9-15 not relevant to the issues at hand. I would also find Interrogatories 16 to 29 irrelevant, prolix and unnecessary.

25 This case is about whether the Defendant is liable to pay taxes/revenues to the Plaintiff. If this liability is determined or the issue is resolved in favour of the Plaintiff then the necessary audits would be carried out once the Court orders so.

The issue that the interrogatories are not addressed to particular individuals has been answered in **Stanfield Properties Ltd. Vrs. National Westminster Bank (1983) 2 ALL ER 249** where it was held that a limited liability company in answering interrogatories

must procure the making of proper answers from the company's officers servant or agents..... It is not what is known to the individual but what is known to the company.

5 I am satisfied that the said interrogatories are correctly addressed to the Defendant/Respondent who will take responsibility to procure answers from its servants, employees or agents.

It was also submitted that the Defendant intends to serve a third party Notice to UNRA. There is no evidence of such intention and hence the said claim cannot stand.

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I find that on the basis of the law and the submissions in the application and the responses thereto, the Applicant has made out justification for an order to serve interrogatories to the Defendant.

15 It is ordered that the Defendant answers the interrogatories allowed i.e. 1-8 and 30-48 within the time limit prescribed by Order 10 CPR. The rest are disallowed. Costs will be in the cause.

20 **Godfrey Namundi**  
**Judge**  
**24/03/2014**

25 24/03/2014:  
Kasisa for Applicant  
Respondents absent  
Court: Ruling read.

30 **Godfrey Namundi**  
**Judge**

24/03/2014