REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL COURTS

WINDING UP CAUSE NO. 45 OF 2001

IN THE MATTER OF: RIFT VALLEY AGRICULTURAL CONTRACTORS LIMITED

AND

IN THE MATTER OF: THE COMPANIES ACT, CHAPTER 486 OF THE LAWS OF KENYA (NOW REPEALED BY ACT NO. 17 OF 2015)

MAHESH KUMAR MANUBHAI PATEL.....PETITIONER

VERSUS

BENSON THIRU KARANJA.....RESPONDENT

JUDGEMENT

1. The petition herein was filed on; 25th September 2001, by Mahesh Kumar Manubhai Patel (herein "the Petitioner"), describing himself as a minority shareholder of; Rift Valley Agricultural Contractors Limited (herein "the company"). He avers that, the company was incorporated on 30th September 1974, under Registration No. C 13002. It has two directors and/or shareholders; himself and Benson Thiru Karanja; the Respondent. The nominal capital of the company is; Kshs; 200,000 divided into 200 ordinary shares of; Kshs. 1,000.00 each. The amount of the capital paid up or credited as paid up is Kshs 200,000.

2. That on 9th December 1975, the company allotted shares to the shareholders, whereupon he got 98 shares and the Respondent got 102 shares. Thus, he is a minority shareholder. That, the company started its operations in; Eldoret town, it moved to; Molo and later established its offices in Nakuru. The primary business was to grow wheat and barley in Narok. Initially, it hired tractors and harvesters and later acquired its machineries and leased land.

3. However, in the year 1999, the relationship between the directors deteriorated and they mutually agreed to part ways. The Petitioner was to buy off the Respondent's shareholding and take over the management of the company. A draft agreement for sale of shares was prepared and circulated to the parties for their approval. That while waiting for the formalization of the agreement, the Respondent unilaterally caused the company to file a suit; Nairobi High Court Case No. 1535 of 1999, and obtained ex parte orders on 30th July 1999, against him, whereby; Hon. Justice Mitei (as he then was) appointed; Joseph Githinji Chege; as the Interim Receiver with power to manage and take control of all the affairs and operations of the company.

4. However, being aggrieved he applied for the setting aside of the ex parte order and on 6th October 2000, whereupon the court vacated them, effectively removing the Interim Receiver with direction to give back the management of the company to the directors on or before 31st October 2000. The Interim Receiver allegedly handed over the company to the Respondent alone who deliberately kept the Petitioner in the dark.

5. Be that as it may, the Petitioner filed this petition relying on the grounds that; -

a) The is irreconcilable differences between him and the Respondent;

b) The Respondent is carrying out the affairs of the company in a manner oppressive to him by excluding him from participating in the management of the company's affairs;

c) The substratum of the company is completely ruined and the company no longer carrying out the business of wheat farming;

d) The company insolvency and inability to pay its creditors or recurrent expenditure;

e) Respondent' has continued to waste, misuse, convert, alienate, sale, remove and irregularly disposed of the company's assets;

f) He has been unable to participate in asset verification and stock taking exercise;

g) *The Respondent's failure to account for company revenue during and after appointment of the Interim Receiver; and*

h) Just and equitable that the company be wound up.

6. However, subsequent efforts to solve the irreconcilable differences were unsuccessful and the Petitioner prays for the following orders;

a) A declaration that the co-director is conducting the affairs of the company in a manner oppressive to him.

b) An order directing the taking of all accounts and the making of all enquiries necessary for the purpose of determination of the company's position prior to appointment of; Receiver in; Nakuru HCCC No. 1535 of 1999 (sic).

c) That, the Receiver in HCCC No. 1535 of 1999; do account for all his acts and omissions.

d) An order that, all just debts of the company be paid forthwith, and to facilitate this, to order the sale of equipment of the company.

e) An order that upon taking of such accounts; the co-director do purchase the shares in the capital of; Rift Valley Agricultural Contractors Limited, at a price per share as shall be determined by the court or that the company be wound up.

In the Alternative, for the following reliefs be granted pursuant to section 219 of the Companies Act (repealed);

f) That Rift Valley Contractors Limited be wound up by court under the provisions of the Companies Act.

g) That, the Official Receiver be appointed as liquidator.

h) That, the costs of the petition be granted to the Petitioner and be paid out of the company assets.

i) Such order or further orders as may be made as the court deems fit to grant.

7. The Petition was advertised and/or published in the Daily Nation newspaper of; 2nd November 2001, and 3rd November 2001, inviting any creditor or contributory of the company, desirous of supporting or challenging it, to take note accordingly. Consequently, several parties filed notices of intention to appear in the petition as creditors including;

a) *Agri-Centre Limited; notice dated; 11th January 2002; filed by Murage & Company Advocates, on 14th May 2002;*

b) *D. S. Matharu; notice dated; 13th December 2001; filed by Kemoe & Company Advocates; on 21st December 2001;*

c) *Agricultural Finance Corporation; notice dated 31st January 2002; filed by Kembi Gatura & Company Advocates; on 31st January 2002;*

d) *Telkom Kenya Limited; notice dated 1st February 2002; filed by Ceaser M. Njagi & Company Advocates; on 1st February 2002;*

e) *R. M. Patel & Partners; notice dated; 22nd February 2002; filed by; Nyaundi Tuiyot & Company Advocates; on 22nd February 2002; and*

f) *Bayer E.A Limited; notice dated 30th January 2002; filed by; Onyango Ohaga & Company Advocates; on 4th February 2002;*

8. However, upon service of the Petition, the Respondent entered appearance and filed a notice of; preliminary objection to the effect that: -

a) The petition is incompetent and should be struck out because, the Honourable Court has no jurisdiction to entertain a Petition from any other person, other than the Honourable Attorney General under, Section 211 of the Companies Act and/or no grounds have been disclosed;

b) The Petitioner has no locus standi, to file this Petition on the grounds of oppression.

c) The petition was filed by an Advocate Pravin Bowry, who was the Advocate for the company in breach of confidentiality due to his client and hence the same should be struck out in its entirety.

9. Apparently after filing these grounds, the Respondent filed an application challenging Pravin Bowry, representing the Petitioner, on the ground of conflict of interest as he acted for other parties associated with the Petitioner and/or the company. The application was heard and dismissed. An appeal was lodged against that decision but is still pending in the Court of Appeal.

10. Be that as it were, the Petition proceeded to full hearing on 20th November 2014, after the parties had filed several applications which had delayed the hearing thereof. The Petitioner, in his evidence in chief literally reiterated the averments in the Petition. He testified that, in the year 1999, the company was the biggest wheat grower with about 150,000 bags. It employed 300 people. The cost of the machines was about Kshs 200,000,000. The turn over per year was; Kshs. 200,000,000 and debts stood at; Kshs. 150,000,000.

11. That, due to the restrained relationship, he could not access the records of accounts to support the financial status of the company; as all documents were taken away when the Interim Receiver came into the company, completely destroying it.

12. He further reiterated that, the Respondent started managing the company alone after the Interim Receiver surrendered it back and later co-opted; Oloo and Macharia as directors, whom he appointed in his absence after he walked out of; a botched meeting convened by the co-director with a hidden agenda to elect the two. Later, on 15th May 2004, the Respondent appointed his son as a director of the company.

13. That, the company has not been operating since 2001, for 12 years, as no crops have been grown on the farm, as all the assets of the company were stolen and/or machinery worth Kshs. 30,000,000, vandalised.

14. However, during cross examination he denied resigning from directorship of the company. He averred that, he was denied an opportunity to increase his shares, and termed all allotments done without approval as un-procedural. He further denied that, filing the Petition was a shot cut and/or revenge on the Respondent and did so; because the Interim Receiver came into the company and for 18 months, he was locked out of the management of the company.

15. He conceded that, Kshs 3,200,000, was transferred to his account but argued that, it was for petty cash as the company operated with Kshs. 3,300,000, monthly. That he had no intention of stealing from his own company he operated for 25 years. He further denied stealing Kshs 11,000,000 from the company.

16. The stated that one Gardhan Bhai was not his partner, but the farm manager. However, he conceded that, money could be deposited in Bhai's account for ease of operations and indeed Mr Bhai once guaranteed a financial facility offered to the company. He also admitted that, he is a director in several other companies including: R. M. Patel & Partners, Farm Parte Limited, Menengai Crescent Properties and Boma Investment Limited, which has been dissolved.

17. That R. M. Patel, started about 1994 and the company herein in 1974. He conceded that, a sum of Kshs. 7,500,000, was transferred to; R.M Patel & Partners with consent of the Respondent, to import a tractor from; R.M Patel & Partners.

18. He confirmed that, there are several suits involving the parties and/or the company herein, which include but are not limited to; HCCC 1535 of 1999, in which has been accused of; embezzling company funds and/or disposing of its machinery unlawfully. Further, suits are; HCCC 228 of 2001; R. M. Patel & Partners 8 others vs. company and Civil Case No. 256 of 2002; between the company and Kenya Wildlife Service, where 2000 crops had been destroyed by wild animals.

19. The Petitioner, maintained that the company is and was unable to pay its debts, in that, as at 28th September 1999, there were 43 creditors of the company. Finally, he confirmed that, he has moved on and formed his own company known as; Oritiri Company Limited, farming wheat and maize in Narok, currently on 3,000 acres.

20. The Respondent did not file witness statement and/or testified at the hearing of the Petition. The parties then filed their final submissions. The Petitioner submitted that; under section 219 (f) of the repealed Companies Act, a company can be wound up by court if; the court is of the opinion that; it is just and equitable the company be wound up. He relied on several authorities inter alia, *Re Garnets Mining Co. Ltd. (1978) KLR 224*, to submit that, the court has the discretion, to grant of an order of winding up a company on the ground that, it is just and equitable to do so. However, the discretion should be exercised judicially depending on the facts of each case.

21. Further, that for the order to be granted; the Petitioner must show he has lost confidence in the management of the company because it has a lack of probity. The case of; *Yenidje Tobacco Company Limited (1916) 2CH (CA)* was also relied on, where it was held that, if there is a complete deadlock between the shareholders and/or the substratum of the company, it is just and equitable to wind up the company. Finally, the case of; *The Matter of African Safari Club Limited (2014) eKLR,* was cited to support the argument that, where a company is unable to pay its debts, it will be wound up.

22. The Petitioner reiterated that, it is clear from uncontested evidence on record that; the company herein, is no longer carrying out its core business of wheat farming and/or any other business. It has suspended its operation for over 15 years, since 2001. There is no documentary evidence from the Respondent stating whether the company is carrying out other businesses or at all. As such pursuant to; section 219 (c) of the repealed Companies Act, where a company does not commence its business within a year from its incorporation or suspends its business for a whole year, the company can be wound up by the court.

23. However, the Respondent submitted that, the Petitioner filed Petition herein, to avoid liabilities in the case; Nairobi High Court Civil Suit No. 1535 of 1999; of embezzlement a sum of; Kshs. 251,745,066.20 from the company. That, indeed, at the time the petition was filed, the substantive ruling on appointment of the Interim Receiver, in Nairobi High Court Civil Suit No. 1535 of 1999, was pending and was delivered rendered on 6th October 2010, by the Honourable Judge E.M. Githinji.

24. The Respondent averred that, the Petitioner was solely in direct and actual management of the company between mid-1994 to October 1999, when he fled Narok owing to tribal clashes and effectively returned to the company in; October 1999. This fact is admitted by the Petitioner in several suits including; Eldoret High Court Civil Suit 228 of 2001 and Nakuru High Court Civil Suit No. 21 of 2009.

25. The Respondent further submitted that, despite the Petitioner dragging alleged creditors into this winding up cause, apart from a few of them entering appearance in the initial stages of the suit, none of them has prosecuted their suit, let alone filed pleadings in support of the fact that; the company is actually owning them "huge debts" as alleged by the Petitioner. As such the Petition was filed with ulterior motives of; defeating the suit, Nairobi Civil Suit No. 1535 of 1999, which amounts to an abuse of the court process.

26. The Respondent invited to should interrogate why; the Petitioner failed to prosecute his petition for prolonged durations of years for no justifiable reason. He argued that, the Petitioner is trying to use the judicial machinery to run the affairs of the company, contrary to the law.

27. That despite the Petitioner having voluntarily left the company, the company has continued to be in operation for 18years, from the time

of filing the suit, to the time of filing of the submissions. The Petitioner further submitted that, the Petitioner has failed to prove his case; pursuant to the mandatory provisions of; Sections 107, 108 and 109 of the Evidence Act, but instead he has made mere unsubstantiated allegations against him and the company. Further although he made several references to several document in his bundle of documents; none of those documents were produced as; exhibits before the Honourable Court. Therefore, they have no probative value in law.

28. The Respondent further argued that, the Petitioner is using this petition to re-litigate cases; Nairobi High Court Civil Suit No. 1535 of 1999 and Narok Resident's Magistrate's Court; Criminal Suit No. 640 of 1999, currently pending before different courts. That, if the Petitioner is aggrieved by any decision/decisions arising therefrom, the proper procedure would be; either file a review in the same cause or an appeal against the impugned decision.

29. The Respondent relied on the case of; *In the matter of Tatu City Limited and Kofinaf Company Ltd (2013) eKLR*; where the court stated that; "for a petition under Section 397 (which is the equivalent of our Section 211 of the Companies Act), to succeed it is not enough to show that; there is just and equitable cause of winding- up of a company, though that must be shown as a preliminary. It must further be shown that the conduct of the majority shareholders was oppressive to the minority; as members, thus events have to be considered not in isolation but part of a consecutive story.

30. Further, there must be continuous acts on the part of the majority shareholder, continuing up to the date of the Petition, showing that, the affairs of the company were being conducted in a manner oppressive to some part of the members. The conduct must be burdensome, harsh and wrongful. Mere lack of confidence between the majority shareholder and the minority shareholder cannot be enough unless lack of confidence springs from the oppression of the minority shareholder by a majority in the management of the company's affairs, and such oppression must involve at least an element of lack of probity or fair dealing to a member in the matter of proprietary rights as a shareholder.

31. That, in the same vein, in Halsbury's Laws of England, 4th Edition Volume 7 (2) at page 1095, the learned author states that the words "just and equitable" in company law; are recognition of the fact that, limited liability company is more than a "mere judicial entity with a personality in law with its own; behind or among it; there are individuals with rights, expectations and obligations inter se, which are not necessarily submerged in the company structure. "the court must therefore subject the exercise of legal rights by various shareholders to equitable consideration of a personal culture arising between the shareholders in order to determine whether any of the actions are either just or inequitable".

32. The parties filed their final submissions, which I have considered alongside the evidence adduced and I find that; several issue have arisen for consideration. The first issue to determine is whether; the documents filed by the Petitioner are admissible; as they were allegedly not produced. In that regard, I have gone through the evidence on record and I find that indeed, there is no express evidence to the effect that, the subject documents were formally produced.

33. However, the record shows that, the Petitioner made extensive reference to these documents during evidence in chief. Thereafter, the Respondent's counsel cross examined him extensively making reference to the same documents. The Petitioner then closed his case, without producing the documents but the Respondent did not raise any issue on the validity of these documents. In fact, the parties took a date for the Respondent's case, without raising any issue being raised on these documents. Eventually, submissions were filed. It is in the submissions that; the Respondent is raising the issue.

34. In that regard, I find that several issues arise: whether the Respondent can raise this subject issue in the submissions and more whether, he has the locus standi, to raise the issue; when he did not adduce any oral evidence during the hearing of the Petition to rebut the Petitioner's evidence. Obviously submissions cannot be used to adduce evidence and/or raise such a substantive issue as herein.

35. Furthermore, the Respondent has fully participated in the hearing of the matter, as aforesaid, without raising the issue, to accord the Petitioner, an opportunity to respond thereto and/or remedy the same; or give the court an opportunity to determine the issue before the case was concluded. It does appear at the time of hearing of the case, the parties were under the impression the documents were produced and proceeded accordingly.

36. The Respondent having fully participated in the trial as aforesaid, is estopped from raising the issue at this stage. Further, the provisions of; Article 159(2) of the Constitution of Kenya, 2010, implores, the courts to promote substantive justice. In the circumstances of the case, I shall not expunge or and/or disregard the documents.

37. The next issue closely related with the first is whether, the Petition is unopposed in view of the fact that, the Respondent did not file any witness statement and/or adduce any evidence at the trial. Generally, and legally the Petition is unopposed. However, I shall consider it on merit. In that regard, it suffices to note that, under Company laws, the majority shareholders owe a fiduciary duty to the minority shareholders. This means that; majority shareholders must deal with minority shareholders with candour, honesty, good faith, loyalty, and fairness. Minority shareholders have the right to expect company officers and directors to act in the company's best interests and in compliance with the shareholder's agreement.

38. Where the majority shareholders have breached this fiduciary duty and/or fails to protect the interests of the corporation, the minority shareholder may file derivative action, and ask the court to allow the suit to proceed in the name of the company. However, if a minority shareholder believes that corporate management has acted with intent to defraud any person, or exercised power in a manner that is oppressive, unfairly prejudicial, or that unfairly disregards the minority shareholder's interest, the minority shareholder may institute a suit against the majority shareholder(s) and seek an appropriate remedy.

39. In the instant case the Respondent argued that the Petitioner has no locus standi; to institute this suit as a minority who is oppressed but did not expound on the same. Be that as it may; it is noteworthy that this Petition was filed under the companies Act (cap 486) laws of Kenya (repealed). In that regard, the provisions of; section 219 thereof stipulates that; a company may be wound up by the court if: -

(a) the company has by special resolution resolved that the company be wound up by the court;

(b) default is made in delivering the statutory report to the registrar or in holding the statutory meeting;

(c) the company does not commence its business within a year from its incorporation or suspends its business for a whole year;

(d) the number of members is reduced, in the case of a private company, below two, or, in the case of any other company, below seven;

(e) the company is unable to pay its debts;

(f) the court is of opinion that it is just and equitable that the company should be wound up;

(g) in the case of a company incorporated outside Kenya and carrying on business in Kenya, winding-up proceedings have been commenced in respect of it in the country or territory of its incorporation or in any other country or territory in which it has established a place of business

40. The petitioner herein relies on section 219 (e) and (f) above, that the company is unable to pay its debts and lists the creditors who have not been paid by the company, at paragraph 32, of the Petition as stated herein. However, the Respondent argued that, there is no proof that the company has not paid its creditors as none of the few who entered appearance in the initial stages of the suit, prosecuted their claim nor supported the petition.

41. I have considered the evidence and concur with the Respondent that none of the creditors participated in this Petition. However, it is noteworthy that, the firm of; Githae & Company, Certified Public Accountants (Kenya) wrote a letter dated 5th May 2004, to the Board of Directors of the company entitled; *"Historical background of the financial ruin of Rift Valley Agricultural Contractors Limited."* The letter states at paragraph 3 (ii); inter alia that, the Respondent "introduced two non-shareholding directors to the company without prior consultation with his co-director and shareholder Mr. M.M Patel. The company is now managed by three directors, Mr. E.K Macharia, Mr. B.t Karanja and Mr. Y. Oloo, with Mr. M. Patel remaining a non-director shareholder of the company". In paragraph 4(ii) thereof, states that, "the operations of the company have as a going concern totally collapsed and the shareholders' capital and any accumulated fund is going down the drain. The company is insolvent, has no income and cannot pay for its running expenses." I note that, although this report was not produced in court but it forms part of the evidence on record, as it was relied on by the parties as they prosecuted the several applications herein. It is therefore evidence that the company is struggling financially.

42. Be that as it were, I shall consider the next ground of; just and equitable relied on by the Petitioner. In that regard I find that, the court has very large discretionary power to order for the winding up of a company if it thinks that; there are just and equitable grounds to wind up the company. The term 'just and equitable' grounds may include any of the grounds for the winding up of the company. This power has been given to the court to safeguard the interests of the minority and the weaker group of members.

43. However, before passing such an order, the court will take into account the interest of the shareholders, creditors, employees and also the general public. The court may also refuse to grant the order for the compulsory winding up of the company; if it is of the opinion that some other remedy is available to the Petitioner to redress his grievances and that the demand for the winding up of the company is unreasonable.

44. The question that arises is whether the circumstances herein tilt in favour of the court exercising its discretion as aforesaid. From the facts herein, it averred or evident that;

a) *By virtue of the cases filed by or between the parties herein, which includes inter alia; Nairobi HCCC No. 1535 of 1999; Nairobi HC Miscellaneous Application No. 406 of 2001, Nairobi HC Miscellaneous Application No. 202 of 2001 and Narok Resident Magistrate's Criminal Case no. 640 of 1999, the relationship between the parties has broken down;*

b) *The petitioner avers, at paragraph 22 of the petition, that, the conflict between the directors, has deteriorated "thus totally disabling and incapacitating the company from consummating the objects for which it was incorporated and bringing the company to a virtual standstill."*

c) *At paragraph 27 of the petition, he laments that, he has been excluded from the farming operations and management of the company, and at paragraph 29, he states that, the co-director/Respondent has parallel farming operations; which is detrimental to the company herein;*

d) The Petitioner avers at paragraph 35 as follows; "the co-director filed and obtained orders in Nakuru Miscellaneous Civil Application No. 202 of 2001 contending that; it had become impracticable to convene a meeting of the directors. Hence he sought that "additional directors be nominated to resolve the continued impasse."

e) The petitioner further avers that, at paragraph 37, attempts to reconcile the directors has been in futility.

45. In addition, it suffices to note that, there have been several alleged change of directorship and/or shareholding of the company, all facilitated by the Respondent, and evidently without the consent and or authority of the Petitioner. The company secretary, Manser Secretarial Services; appointed Secretary of the company with effect from 27th May 2004; wrote to the Registrar General on 27th May 2004, a notification of change of directors and secretaries and/or their particulars as follows; Frank Karanja Thiru and David Karanja Thiru, appointed as directors and Yusuf Oloo and Elijah Kihungu Macharia; ceased to be directors of the company.

46. Further evidence, based on a document entitled; Company Registration/ 12 C 13002 from the Registrar General Department of Attorney General, states that the directorship of; the company has changed and annexed to the Replying affidavit of the Respondent dated 25th February 2002, is a document that, shows the details of the directors of the company as follows:

No.	Names	Address	Nationality	Shares
1.	Yusuf Oloo	P.o Box 1529, Nakuru	Kenyan	Nil
2.	Elijah Kihungu Macharia	P.o Box 57040, Nakuru	Kenyan	Nil
3.	Benson Thiru Karanja	P.o Box 33, Molo	Kenyan	102
		Non-director shareholders		
4.	Mahesh Kumar Manibhai Patel	P.o Box 33,	-	98

47. In conclusion I find that, in view of the aforesaid, it is evident that the management of the company herein is “deadlocked” with the Petitioner deliberately left out of the operations of the company, and each director accusing the other of misappropriating the company’s assets. Thus the substratum of the company has failed, and it is “just and equitable” to wind up the company. Indeed; during cross examination, the Petitioner stated: “I was very bitter when the Receivers were brought in. My children could not go to University because of what Karanja did.”

48. It is also clear that this case has been in court for 19 years. The company has not been trading for a long time. Although the Respondent submitted the company is operational up to the time of filing submissions, there is no evidence to support the same The provisions of; Section 219 (c) of the (repealed Companies Act), states that where a company does not commence its business within a year from its incorporation or suspends its business for a whole year, the company can be wound up by the court. Indeed, each initial director has moved on with their own companies.

49. In final conclusion I rely on the case of; Ebrahimi v Westbourne Galleries Ltd [1973] AC 360, Mr Ebrahimi and Mr Nazar were partners and incorporated a company as their business was highly successful in buying and selling expensive rugs. Their store was originally in Nottingham, and moved to London at 220 Westbourne Grove. Mr Ebrahimi and Mr Nazar were the sole shareholders in the company and took a director's salary rather than dividends for tax reasons. A few years later, when Mr Nazar's son came of age, he was appointed to the board of directors and Mr Ebrahimi and Mr Nazar both transferred shares to him. After a falling out between the directors Mr. Nazar and son called a company meeting, at which they passed an ordinary resolution to have Mr Ebrahimi removed as a director. Mr Ebrahimi, clearly unhappy at this, applied to the court for a remedy to have the company wound up.

50. The House of Lords stated that, as a company is a separate legal person, the court would not normally entertain such an application. However, as the company was so similar in its operation as it was when it was a partnership, the partners created what is now known as a quasi-partnership. Mr Ebrahimi had a legitimate expectation that his management function would continue and that the articles would not be used against him in this way. Based on the personal relationship between the parties it would be inequitable to allow Mr Nazar and his son to use their rights against Mr Ebrahimi so as to force him out of the company and so it was just and equitable to wind it up. The company was wound up and Mr Ebrahimi received his capital interest.

51. The upshot of all this is that, the company herein cannot be allowed to subsist, in view of the breakdown of the relationship between the parties and other factors stated herein. I therefore find that it is just and equitable to wind up this company and I allow the alternative prayer (f) of the prayers in the petition. All other prayers to be canvassed in the subsisting cases between the parties. In the circumstances of this case where each party is blaming the other I make no orders as to costs. It is so ordered

Dated, delivered and signed on this 27th day of January, 2020, in an open court

GRACE L NZIOKA

JUDGE

In the presence of;

Mr Naiku for the Petitioner

Mr Badia for the Respondent

Dennis the Court Assistant