



**Wanjama v Registrar of Companies & another; Cytonn Investment Partners Eleven  
LLP & 16 others (Interested Parties) (Miscellaneous Application E877 of 2023)  
[2025] KEHC 3644 (KLR) (Commercial and Tax) (24 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3644 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
MISCELLANEOUS APPLICATION E877 OF 2023**

**H NAMISI, J  
MARCH 24, 2025**

**BETWEEN**

**PATRICIA NJERI WANJAMA ..... APPLICANT**

**AND**

**THE REGISTRAR OF COMPANIES ..... 1<sup>ST</sup> RESPONDENT**

**THE OFFICIAL RECEIVER ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**CYTONN INVESTMENT PARTNERS ELEVEN LLP ..... INTERESTED PARTY**

**CYTONN ACCESS WAY LLP ..... INTERESTED PARTY**

**CYTONN INVESTMENT PARTNERS TWELVE LLP ..... INTERESTED PARTY**

**CYTONN ACTIVE STRATEGIES LLP ..... INTERESTED PARTY**

**MILIMANI HAVENS LLP ..... INTERESTED PARTY**

**CYTONN INVESTMENT PARTNERS SEVEN LLP ..... INTERESTED PARTY**

**CYTONN INVESTMENT PARTNERS EIGHT LLP ..... INTERESTED PARTY**

**CYTONN INVESTMENT PARTNERS TWENTY-ONE LLP .... INTERESTED  
PARTY**

**CYTONN EDUCATION SERVICES LIMITED LLP ..... INTERESTED PARTY**

**EAST AFRICAN FORUM FOR ALTERNATIVE INVESTMENTS  
LLP ..... INTERESTED PARTY**

**CYTONN INVESTMENTS DISTRIBUTION LLP ..... INTERESTED PARTY**



OLOLUA ESTATES LLP ..... INTERESTED PARTY  
MYSTIC PLAINS LLP ..... INTERESTED PARTY  
SERITON CONSTRUCTION COMPANY LTD ..... INTERESTED PARTY  
CYTONN INVESTMENT PARTNERS EIGHTEEN LLP ... INTERESTED PARTY  
CYTONN CENTRE FOR AFFORDABLE HOUSING LLP INTERESTED PARTY  
CYTONN HIGH YIELD SOLUTIONS LLP ..... INTERESTED PARTY

## RULING

1. Before the Court is a Notice of Motion dated 4 October 2023 filed under section 103 of the *Companies Act*, No. 17 of 2015, seeking the following orders:
  - i. Spent
  - ii. That the Honourable Court be pleased to direct the Registrar of Companies to register in the companies registers, the resignation of Patricia Njeri Wanjama as Company Secretary, Director, Statutory Manager and or Partner as the case may be from the following companies:



Company Name	Reg. Number	Position	
1	Cytonn Investment Partners Eleven LLP	LLP/2016/41	Manager
2	Cytonn Access Way LLP	LLP/2015/60	Manager
3	Cytonn Investment Partners Twelve LLP	LLP/2016/40	Manager
4	Cytonn Active Strategies LLP	LLP/2015/95	Manager
5	Milimani Havens LLP	LLP/2015/108	Manager
6	Cytonn Investment Partners Seven LLP	LLP/2015/55	Manager
7	Cytonn Investment Partners Eight LLP	LLP/2015/77	Manager
8	Cytonn Investment Partners Twenty-One LLP	LLP/2017/97	Manager
9	Cytonn Education Services Ltd	PVT V7UAV8A	Director
10	East African Forum For Alternative Investments LLP	LLP-6R1LMG	Manager
11	Cytonn Investments Distribution LLP	LLP-6R1LAZ	Manager
12	Ololua Estates LLP	LLP/2014/108	Manager
13	Mystic Plains LLP	LLP/2015/64	Manager
14	Seriton Construction Company Ltd	PVT/2016/033717	Secretary



15	Cytonn Investment Partners Eighteen LLP	LLP/2017/21	Manager
16	Cytonn Centre for Affordable Housing LLP	LLP-YP18KA	Partner
17	Cytonn High Yield Solutions LLP	LLP/2014/106	Manager

- iii. That costs be provided for.
2. The Application is supported by annexed Affidavit of Patricia Njeri Wanjama and premised on the following grounds:
- a. The Applicant resigned as Company Secretary, Director, Statutory Manager and or Partner of the Interested Parties sometimes in May, 2021.
  - b. In addition to the letters of resignation, the Applicant caused to be drawn and executed the necessary Affidavits to give effect to her resignation aforesaid.
  - c. Through the e-citizen platform, the Principal Partner and Shareholder of the Interested Parties, Cytonn Investment Management PLC has made payments amounting to Kshs 41,000/= (Say Kenya Shillings Forty-One Thousand Only) in government fees to process the applications for resignation to the Registrar of Companies.
  - d. Despite executing the necessary forms/documentation and making requisite payments, the Registrar of Companies has failed to effect the Applicant's resignation in the Companies' registers.
  - e. The Applicant has been seeking to register her resignations with the Registrar of Companies since August, 2021 and such resignations have not been registered despite compliance on her part and repeated requests both from the Applicant and the Interested Parties.
  - f. On 14th June, 2023, the Office of the Registrar communicated to the Applicant That the Official Receiver had issued instructions That no change of records should be effected in the registers of Companies of the interested parties.
  - g. The position taken by the Registrar of Companies and or the Official Receiver is contrary to law, and the Applicant prays for court orders to compel the Registrar of Companies to effect the changes sought by the Applicant.
  - h. The Applicant is held hostage by intrigues That are beyond the purview of the law on matters of this nature, and the continued refusal, neglect and or failure by the Registrar of Companies to effect the changes sought by the Applicant amounts to infringement on her right to disassociate from the Interested Party companies.
  - i. It is only fair, just and proper That this matter is heard as a matter of urgency and the orders sought issued.



3. The Supporting Affidavit reiterates the grounds on the Application. The Applicant produced copies of letters of resignation, affidavits to give effect to the resignations, payment receipts and email correspondence between the Applicant, 1<sup>st</sup> Respondent and Interested Parties.
4. The 1<sup>st</sup> Respondent filed a Replying Affidavit pointing out That there are two pending matters before the Presiding Judge of the division, That is, Insolvency Petition No E063 of 2021 [Cytonn High Yields Solutions LLP \(In Administration\) v Official Receiver](#) and Insolvency Petition No E064 of 2021 [Cytonn Real Estate Project Notes LLP \(In Administration\) v Official Receiver](#).
5. The 1<sup>st</sup> Respondent confirmed That vide an internal memo dated 20 January 2023, the 2<sup>nd</sup> Respondent informed the 1<sup>st</sup> Respondent That once a liquidation order is issued, liquidation commences, thus transactions in relation to Cytonn High Yields Solution LLP and Cytonn Real Estate Project Notes LLP would be null and void. In its Ruling dated 6 January 2023, the Court held That the various Special Purpose Vehicles were related to Cytonn Real Estate Project Notes LLP and Cytonn High Yields Solutions LLP and termed them all as “cytonns”.
6. The 1<sup>st</sup> Respondent averred That according to the records held by it, the Applicant made payments through the e-citizen platform to effect her resignation on or about October 2022, when Cytonn Real Estate Project Notes LLP and Cytonn High Yields Solutions LLP were already in administration. The removal of the Applicant as a director, secretary and manager of the various entities will be detrimental to the members of the public whom have invested billions and are currently on a steady path of seeking justice. The 1<sup>st</sup> Respondent further averred That the Applicant herein holds senior positions in the various Interested Parties and allowing her exit will negatively impact the Liquidation process as the Official Receiver will have lost a source in investigating the failure of the partnership.
7. The 2<sup>nd</sup> Respondent filed a Replying Affidavit and averred That Cytonn High Yields Solutions (CHYS) was formed to make, hold, own and dispose of investments made and engage in such other activities That are permitted or incidental or ancillary thereto, in line with which, it collected money from members of the public, which it was to invest on their behalf. The monies collected were then loaned, on various dates to various Special Purpose Vehicles (SPv) including 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 13<sup>th</sup>, 15<sup>th</sup> Interested Parties captured in the Application.
8. The 2<sup>nd</sup> Respondent further averred That despite the Applicant's claim That she resigned from the interested parties in her various capacities in May 2021, the required payments were not made until October 2022, by which time CHYS was under Administration. The Applicant is a Manager in CHYS (In Liquidation) and holds various other positions as outlined in her application in other 'Cytonns'. The 2<sup>nd</sup> Respondent contended That Sections 433, 434 and 435 of the [Insolvency Act](#) empower the Official Receiver to investigate the failure of the partnership and in so doing require officers of the partnership to provide information as required.
9. The 2<sup>nd</sup> Respondent contended That it is in the interest of justice to maintain the status quo, as the Official Receiver will require critical information, in relation to where the creditors' funds were transferred to and who should be held responsible, which the Applicant herein, being an officer of the Cytonns, may have. The resignations are in bad faith and meant to escape any disclosure obligations on the Applicant's part, thus allowing the removal of the Applicant herein in the interested parties would undermine the Creditors' interests and rights, being members of the public, hoping to recover their investments.
10. The Application was canvassed by way of written submissions.



11. The Applicant submitted That she formed the intention to resign from the Cytonn Companies sometime in 2021. By the time of filing this application, the resignations from the 17 companies on the face of the Application were yet to be effected by the 1<sup>st</sup> Respondent. It was her contention That the resignations were not done in reaction to the insolvency and liquidation proceedings before the Court, contrary to the assertions by the 2<sup>nd</sup> Respondent.
12. The Applicant submitted That the Insolvency Petition E063 of 2021, whose ruling dated 6 October 2021 made the Administration Order. The Ruling of 6 January 2023 ordering liquidation was filed after the Applicant had tendered her resignations to the Board of Cytonn Management on 10 May 2021 and initiated the formal processes attendant thereto.
13. It was the Applicant's submission That pursuant to the provisions of Section 577 of the [Insolvency Act](#), the Administrator is clothed with powers to appoint and/or remove directors. The Administration process does not expressly bar changes to the status of members of a company. The same is only barred in the liquidation process as provided in section 429 of the Act.
14. The 1<sup>st</sup> Respondent submitted That the 16 entities which the Applicant is trying to run away from and escape liability for actions That occurred while she was partner and/or manager are part and parcel of the liquidation process in Cytonn High Yields Solutions LLP and Cytonn Real Estate Project Notes LLP and That the application has been brought in bad faith.
15. It was the 1<sup>st</sup> Respondent's submission That section 33(1) and (2) of the [Limited Liability Partnerships Act](#) requires entities to notify the Registrar of Companies of any changes within 14 days. The Interested Parties failed to abide by this provision. Although the Applicant was cushioned by section 33(2), she failed to personally lodge the statement specifying her resignation. It was not until 24 November 2021, a month after administration orders had been issued against CHYS and CPN, and six months after the date of her resignation, That the Applicant wrote to the 1<sup>st</sup> Respondent alleging That the Interested Parties had failed to comply with Section 33(1) of the [Limited Liability Partnerships Act](#) and, therefore, she would rely on Section 33(2) to register her resignation. Nonetheless, the Applicant, having been the Manager of the various entities, ought to have ensured That the provisions of section 33 of the [Act](#) were complied with given the fact That it was her personal responsibility to see to it That the Registrar of Companies was notified of her resignations and the necessary changes effected in the register.
16. The 2<sup>nd</sup> Respondent identified two issues for determination; (i) whether the Application was brought in good faith; and (ii) whether the Applicant should be removed from the Interested Parties' register.
17. On the first issue, the 2<sup>nd</sup> Respondent submitted That the Applicant held various roles in 50 different Cytonn entities and has successfully exited from 33, leaving the 17 Interested Parties. This was a strategic move to avoid any culpability in the matter when the creditors come calling. The 2<sup>nd</sup> Respondent pointed out That the earliest payment made by the Applicant to register her resignation was on 24 October 2022, only 2 months before the liquidation order against CHYS was issued and 12 months after CHYS had gone into administration.
18. The 2<sup>nd</sup> Respondent relied on the case of *Perry -v- Schwarzenegger*, 671 3D 1052, in submitting That any reasonable man, presented with the facts of the Applicant's involvement in the Cytonn entities, followed by her departure therefrom, keeping in mind the timing of the departures, would come to the conclusion That the Applicant was likely party to the schemes and machinations of Cytonn to defraud innocent investors, who were members of the public.
19. On the second issue, the 2<sup>nd</sup> Respondent made reference to the provisions of section 33(3) and (4) of the [Limited Liability Partnership Act](#) in submitting That the Applicant could have exited from the



Interested Parties as guided by the Registrar on 1 September 2021 when she was notified her documents needed to be amended in order to effect her resignation. The 2<sup>nd</sup> Respondent averred That although the Applicant claimed to have resigned on 10 May 2021, she did not tender any proof of the same, yet, by law, the Registrar of Companies should have been notified.

### **Analysis & Determination**

20. I have keenly read the various Affidavits and submissions by the parties.
21. Section 522(1) of the *Insolvency Act* lays out the objectives of administration of a company, which are:
  - a) to maintain the company as a going concern;
  - (b) to achieve a better outcome for the company's creditors as a whole than would likely to be the case if the company were liquidated (without first being under administration);
  - (c) to realise the property of the company in order to make a distribution to one or more secured or preferential creditors.
22. In the case of *Tbika Nursing Homes Limited v Rao & 2 others* (Insolvency Cause E092 & E093 of 2021 (Consolidated)) [2021] KEHC 417 (KLR), the learned judge observed;

“It is clear from the foregoing That the objective of administration under the Act is to maintain a distressed Company as a going concern.”
23. *In re Nakumat Holdings Limited* [2017] KEHC 2266 (KLR), the Court opined thus:

“Administration, though, is now a tool intended to offer breathing space for insolvent companies whilst also putting better returns and packages for creditors, not ordinarily available in liquidation. And, unlike compromises, administration as an alternative rescue process leads to a stay of past and future legal proceedings as per ss.560 & 561 of the Act hence making it cheaper for the company.”
24. Section 522(2) of the *Insolvency Act* provides That the administrator of a company shall perform the administrator's functions in the interests of the company's creditors as a whole.
25. The Act confers functions and powers upon the Administrator upon appointment, which are outlined in the Fourth Schedule and include: Power to convene members/creditors meeting; Power to remove and appoint a director to the office; Power to take any action That contributes to the effective and efficient management of the affairs and property of the company; Power to distribute company's assets to the creditors; Duty to assume control of property of the company; Power to dispose of property That is subject to floating charge; Power to dispose of goods That are in possession of the company under a credit purchase.
26. As rightly submitted by the Applicant, under section 577, the Administrator has the power to remove and appoint directors of the company. The section provides as follows:

The administrator of a company—(a) may remove a director of the company from office; and (b) may appoint a person to be director of the company (whether or not to fill a vacancy)
27. It is noteworthy That the section is not couched in mandatory wording, but rather gives the discretion of appointment or removal of directors to the Administrator, who at all times is acting in the best interest of the creditors.



28. Further, as submitted by the Respondents, in carrying out his functions, the Administrator may be required to conduct investigations into the status of the company, its properties and dealings, in a bid to ensure the effective and efficient management of the affairs and property of the company.
29. Turning back to the application herein, it is important to review the chronology of events, which I have pieced together based on the averments and submissions by respective parties and reproduced below:
- 10-11th May 2021 - Applicant pens her resignation from Interested Parties
- 6 October 2021 - CHYS and CPN are placed under administration;
- 24 November 2021 - Applicant writes to the 1<sup>st</sup> Respondent alleging That the Interested Parties have failed to effect the changes in the Register. She will rely on section 33(2) of the Act to effect the resignations.
- 4 April 2022 - Applicant depones statutory declarations to reflect the resignations
- 24 Oct – 29 Nov 2022- payment of statutory fees required to effect resignation
- 6 January 2023 - Court lifts the administration and orders liquidation of CHYS and CPN.
- 4 October 2023 - Applicant files the instant cause
30. I have taken the liberty of setting out the chronology above because the same is important in understanding the Applicant’s arguments and the counter-arguments by the Respondents. The Applicant claimed That she resigned in May 2021 from the Interested Parties where she held various senior positions such as Manager, Director, Secretary and Partner. As submitted by the Respondents, by virtue of holding these positions, the Applicant was involved in the day-to-day operations of the various entities. I note That the Applicant held the position of Secretary in Seriton Construction Company Ltd, 14<sup>th</sup> Interested Party. This implies That the Applicant was conversant with the procedures relating to changes within a company and the registration of such changes with the Registrar of Companies. The duty to ensure compliance with the provisions of the *Companies Act* and other legislation would form part of the job description of a secretary of any company. It is, therefore, surprising That the Applicant waited from May 2021 until November 2021 to realise That the changes had not been effected. Notably, by this time, the order for administration had been issued.
31. Even upon realising this and communicating to the 1<sup>st</sup> Respondent, it wasn’t until April 2022, almost a year later, That the Applicant deponed the Statutory Declarations. Payments were then made about 6 months after the Affidavits. Definitely, the timing of it all raises eye brows. As submitted by the 2<sup>nd</sup> Respondent, any reasonable man presented with the facts above and chronology of events, bearing in mind That shortly thereafter the insolvency processes were initiated to recoup over Kshs 11 billion invested by innocent members of public, would come to the conclusion That this is an attempt by the Applicant to escape liability and separate herself from the insolvency proceedings.
32. Even if one is to assume That the timing of the events was a coincidence, the Applicant cannot run away from the responsibility in section 27(3)(a) of the *Limited Liability Partnerships Act*, which provides as follows:
- A manager of a limited liability partnership — (a) shall be personally responsible for ensuring That the partnership complies with sections 29 sections 32 and sections 33



33. Section 33(1) and (2) of the Limited Liability Partnership Act provide thus:

- (1) Whenever a change occurs in any of the details registered in respect of a limited liability partnership, the partnership shall, within fourteen days after the change, lodge with the Registrar a statement specifying the nature and effective date of the change and such other information (if any) as is prescribed by the regulations.
- (2) A person who ceases to be a partner or a manager of a limited liability partnership may personally lodge with the Registrar the statement referred to in subsection (1) if that partner or manager reasonably believes that the partnership will not lodge the statement with the Registrar.

34. Again, assuming that the timing of events was merely a coincidence, the Applicant has not given satisfactory explanation, or any at all, as to why it took her 4 months, from November 2021 to April 2022, to pursue registration of the changes upon discovering that the Interested Parties had not done so. Further, no reason has been advanced why the payments were made 6 months after that.

35. Based on the material placed before me, I am not satisfied that the Applicant is deserving of the orders sought. The Application is, therefore, dismissed with costs to the Respondents.

**DATED AND DELIVERED AT NAIROBI THIS 24 DAY OF MARCH 2025**

**HELENE R. NAMISI**

**JUDGE OF THE HIGH COURT**

Delivered on virtual platform in the presence of:

Ms. Samba.....for the Applicant

Ms. Akoth h/b Mr. Odhiambo .....for the 1<sup>st</sup> Respondent

Ms. Kinuthia.....for the 2<sup>nd</sup> Respondent

Ms. Koile.... for Interested Parties

Libertine Achieng .... Court Assistant

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