



Standard Chartered Financial Services Limited v Manchester Outfitters (Suiting Division) Limited Now Called King Woolen Mills Limited & 2 others (Petition (Application) E012 of 2024) [2025] KESC 39 (KLR) (30 May 2025) (Ruling)

Neutral citation: [2025] KESC 39 (KLR)

**REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA
PETITION (APPLICATION) E012 OF 2024
MK IBRAHIM, SC WANJALA, N NDUNGU, I LENAOLA & W OUKO, SCJJ
MAY 30, 2025**

BETWEEN

STANDARD CHARTERED FINANCIAL SERVICES LIMITED APPELLANT

AND

**MANCHESTER OUTFITTERS (SUITING DIVISION) LIMITED NOW CALLED
KING WOOLEN MILLS LIMITED 1ST RESPONDENT**

GALOT INDUSTRIES LIMITED 2ND RESPONDENT

AD GREGORY & CD CAHILL 3RD RESPONDENT

(Being applications to strike out Notice of Change of advocates filed and to bar the firms of Kenyatta Odiuwor, Kaka Kamau & Company Advocates and any other firm from filing any other documents on behalf of the 1st and 2nd applicants)

RULING

Representation

Mr. Philip Nyachoti for the Applicants (Nyachoti & Co. Advocates)

Mr. Kaka Kamau for the 1st Respondent (Kaka Kamau & Co. Advocates)

Mr. Omondi for the 2nd Respondent (Kenyatta Odiuwor & Co. Advocates)

Ms. Radhika Arora h/b for SC George Oraro for the Appellant/Respondent
(Oraro & Co. Advocates)

Mr. Paul Chege for the 3rd Respondent
(Amolo & Gachoka Advocates)



1. Cognisant that this appeal came up for hearing on 23rd January 2025 and was adjourned at the instance of the appellant to allow for the filing of a supplementary case digest and a bundle of authorities, and further to enable the firms of Nyachoti & Co. Advocates and Kenyatta Odiwuor & Co. Advocates to regularise their respective representations of the 2nd applicant; and, subsequent to the said adjournment, the firm of Kaka Kamau & Co. Advocates filed a Notice of Change of Advocates dated 5th February 2025, purporting to come on record for the 1st applicant; and
2. Upon now considering two applications filed by the firm of Nyachoti & Co. Advocates dated 30th January 2025 and 18th February 2025 seeking to strike out the Notice of Change of Advocates filed by the firms of Kenyatta Odiwuor & Co. Advocates and Kaka Kamau & Co. Advocates and, also urging this Court to bar, deter and restrain any other firm of advocates on the instructions of Pravin Galot, Rajesh Galot and Narendra Galot from disrupting and interfering with the proceedings herein; and
3. Upon considering the affidavits filed by Phillip Nyachoti, in support of the Motions, submissions and supplementary submissions wherein he submits that, with instructions of Mohan Galot, Chairman of the 1st applicant, the firm of Nyachoti & Co. Advocates had been in conduct of this matter at the Court of Appeal on behalf of the applicants until its determination on 16th December 2022 wherein the Court of Appeal directed that the dispute between the parties be referred to the High Court for assessment of damages only; that immediately thereafter the firm of Kenyatta Odiwuor & Company Advocates sought leave to take over the matter on behalf of the 1st applicant whereas the firm of Odera Were & Company Advocates sought to take over the matter on behalf of the 2nd applicant. Vide a Ruling delivered at the High Court (Mabeya J) dated 24th March 2023, the court dismissed the two applications thereby affirming Nyachoti & Co. Advocates as the appointed firm for the applicants.
4. Further that the two firms filed two applications at the Court of Appeal that is Galot Industries Limited vs Manchester Outfitters (Suiting Division) Limited now called King Wollen Mills Limited and 2 Others Nairobi Civil Application No. E220 of 2023 and Manchester Outfitters (Suiting Division) Limited vs Galot Industries Limited & 2 Others Nairobi Civil Application No. E215 of 2023 seeking stay of proceedings but the said applications were responded to and withdrawn on 27th September 2023. The applicant therefore urges that the Notices of Change of Advocates, the recent being by Kaka Kamau and Company Advocates dated 5th February 2025 as relates to the 1st applicant, are made in bad faith and in an effort to circumvent the decision of the High Court dated 24th March 2023. The applicants also urge that the injunction issued in Narendra Galot v. Mohan Galot HCCC Miscellaneous Application No. E825 of 2023 only barred Mohan Galot from dealing with the 1st respondent's monies and assets but did not bar him from appointing advocates to represent the 1st applicant; the applicants equally asks this Court to direct the persons instructing the firm of advocates to, in the alternative pay Kshs. 300,000,000/- as security for costs for the legal fees so far incurred; and
8. Upon also considering the responses filed to the two applications and in particular replying affidavits sworn by Rajesh Galot & Pravin Galot (who are equally directors of the 1st and 2nd applicants) and their respective submissions wherein they posit that Philip Nyachoti has sworn the supporting affidavit based on factual matters touching on the firm of advocates appointed to represent the applicants which facts are outside his knowledge, and as such, the same is fatally defective and liable to be struck out; that, Mohan Galot, whether as the governing director or as an ordinary director of the applicants per Article 10 of the 1st applicant's Memorandum and Articles of Association, has breached his fiduciary duty by diverting monies payable to the applicants on account of a judgment in HCCC No. 2054 of 1993 to his son's personal bank account. As a result, the Estate of Lalchand Pusharam Galot instituted HC Miscellaneous No. E825 of 2023 wherein they obtained leave to file a derivative suit and orders restraining Mohan Galot from using, selling, alienating, disposing,



transferring, charging, removing, converting or dealing with the applicant's assets/monies. They urge that the orders in HC Miscellaneous No. E825 of 2023 also bar Mohan Galot from dealing in the applicant's affairs, including the appointment of advocates. It is further contended that a derivative suit being, HCCComm. No. E062 of 2025 has since been filed and in the circumstances, Mohan Galot cannot instruct counsel to act for the applicant in any matter whatsoever, particularly in the instant appeal, which, by its nature, involves the applicant's monies and assets; and

8. Further that the firms of Kenyatta Odiwour & Co. Advocates and Kaka Kamau & Co. Advocates were instructed pursuant to a legal and proper resolution of the applicants and they are therefore properly on record; while Article 10 of the 1st applicant's Memorandum and Articles of Association limits Mohan Galot's powers as the governing director where he is indisposed or out of the country, in the proceedings in MCCR No. 482 of 2014, Mohan Galot's Advocates confirmed that he is seriously ill and currently outside the jurisdiction and, as such, Mr. Mohan could not have issued instructions to the firm of Nyachoti & Co. Advocates to continue acting for the applicants in the instant matter; that aside, while the appointment of Meshack Odero & Co. Advocates (who acted for the applicants, and was subsequently replaced by the firm of Nyachoti & Co. Advocates) was done in consultation with all the board members as per the CR 12 form dated 16th March 2016, all other succeeding appointments have been done clandestinely and to the exclusion of the board members; they also contend that the withdrawal of the appeal at the Court of Appeal was done underhandedly by the firm of Nyachoti & Co. Advocates and that in two rulings delivered on 13th June 2017 and 12th April 2024 in SC Petition No. 6 of 2016, this Court resolved the question of representation as between the firms of Havi & Co. Advocates and Gikera & Vadgama Advocates but it did not conclusively hold that Mohan Galot has the sole mandate to appoint advocates to act for the 1st respondent. In any event, Kaka Advocates posits that the 1st respondent's directorship is still under contest; and
11. Noting that the appellant and the 3rd respondent have not participated in the instant application on the grounds that they relate exclusively to the representation of the 1st and 2nd applicants; and
12. Having considered the totality of the applications, the response and submissions put forth, we now opine as follows:
 - i. We have considered the depositions made by Mr. Phillip Nyachoti in the various affidavits sworn in this matter. The averments revolve around the representation of the 1st and 2nd applicants by the firm of Nyachoti & Co. Advocates, wherein Mr. Nyachoti, Advocate practices. The averments are therefore relevant and fall squarely within his personal knowledge. In the event, we find that Mr. Nyachoti is competent to swear the affidavits in support of the applications.
 - ii. It is not in dispute that the applicants form part of a group of companies owned by the Galot family, with Mr. Mohan Galot acting as Group Chairman. Article 10 of the Memorandum of Association of the 1st applicant grants the Group Chairman extensive authority, including the authority to exercise all powers and discretion generally vested in the board of directors, including the power to appoint directors. Notably, Article 10 provides that all other directors shall be bound by the discretion of the Group Chairman.
 - iii. The issue of legal representation for the applicants has previously been litigated before the High Court, the Court of Appeal, and this Court. In *Mohan Galot v. Kenya National Capital Corporation Ltd* Civil Appeal No. 47 of 2011, the Court of Appeal reversed the High Court's directive that *advocates act* jointly, having found that the arrangement would result in conflicting mandates. The Court accordingly allowed the firm of Havi & Co. Advocates to represent the 2nd applicant. This determination was subsequently adopted by the High Court



in *Mohan Galot & 5 Others v. Kenya National Capital Corporation Limited* [2016] KEHC 8632 (KLR).

- iv. In *Manchester Outfitters (Suiting Division) Ltd (Now Known as King Woollen Mills Ltd) & Another v. Standard Chartered Financial Services Ltd & 2 Others*, SC Petition No. 6 of 2016 [2017] KESC 51 (KLR), this Court (per Ojwang SCJ) was similarly confronted with conflicting resolutions from different boards of directors, each appointing a different advocate to represent the 2nd applicant. The Court held that the issue of directorship of the 2nd applicant was pending determination in High Court Cause No. 430 of 2012, and until resolved, the Court allowed the firm of Havi & Co. Advocates to continue representing the 2nd applicant.
- v. In *Manchester Outfitters Suiting Division (Now Known as King Woollen Mills Ltd) & Another v. Standard Chartered Financial Services Ltd & Another* [2023] KEHC 2272 (KLR), Mabeya J. adopted the reasoning of this Court in SC Petition No. 6 of 2016 (supra). The High Court declined an application for change of representation by the firm of Kenyatta Odiwour & Co. Advocates and directed the then-current firm, Meshack Odero & Co. Advocates, to continue acting in the matter.
- vi. A central question for determination is whether the injunctive orders issued in *Narendra Galot v. Mohan Galot*, (supra), limited the Group Chairman's authority to appoint legal counsel for the Applicants. The Court therein found that the applicant, Mr. Narendra Galot, had made a prima facie case of mismanagement of company funds and assets by Mr. Mohan Galot and granted a temporary injunction restraining him from dealing with the companies' assets.
- vii. We are persuaded by the principle laid down in *George Pariken Ole Narok & Another v. Cabinet Secretary, Ministry of Industry, Trade & Co-operatives & Another; Kenya Farmers Association Ltd (Interested Party)* [2021] eKLR, wherein the court stated:

“An advocate is an agent of the client they represent and can therefore only represent a party with the correct authority. It is trite that the donor of such authority must first have the authority to validly donate the same to their agent.”
- viii. The dispute concerning the directorship of the applicants remains unresolved, and is currently the subject of proceedings in *Manchester Outfitters v. Pravin Galot & Others*, Nairobi HCCC No. 55 of 2012. As evidenced by the consistent rulings of the superior courts and this Court, the Group Chairman retains the discretion to act in accordance with Article 10, including the appointment of legal counsel, until the directorship dispute is conclusively determined. Notably, the injunction issued in *Narendra Galot v. Mohan Galot*, (supra) did not extend to restraining Mr. Mohan Galot's discretion under Article 10 of the 1st applicant's Memorandum of Association.
- ix. We concur with the view that it would be counterproductive to have the applicants represented by multiple firms of advocates acting at cross purposes. The suits addressing directorship and shareholding are the appropriate vehicles through which to challenge or revoke Mr. Mohan Galot's powers under Article 10. Until such time as the High Court makes a final determination on the directorship and shareholding status of the applicants, we find and hold that the firm of Nyachoti & Co. Advocates shall remain on record for the applicants.

14. Consequently, and for the reasons aforesaid, we make the following orders:



- a. The application dated 30th January 2025 and filed on 31st January 2025 is allowed only to the extent that the Notice of Change of Advocates filed by the firm of Kenyatta Odiwuor & Co. Advocates is hereby struck out.
- b. The application dated 18th February 2025 and filed on 19th February 2025 is allowed only to the extent that the Notice of Change of Advocates filed by the firm of Kaka Kamau & Co. Advocates is hereby struck out.
- c. The firm of Nyachoti & Co. Advocates shall continue to act for the 1st and 2nd applicants herein, subject to, and until the High Court in HCCC No. 55 of 2012 determines the dispute as pertains directorship of the applicants.
- d. Each party shall bear their costs of the application.

Orders accordingly.

DATED AND DELIVERED AT NAIROBI THIS 30TH DAY OF MAY, 2025.

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M.K. IBRAHIM

JUSTICE OF THE SUPREME COURT

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S.C. WANJALA

JUSTICE OF THE SUPREME COURT

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NJOKI NDUNGU

JUSTICE OF THE SUPREME COURT

.....

I. LENAOLA

JUSTICE OF THE SUPREME COURT

.....

W. OUKO

JUSTICE OF THE SUPREME COURT

I certify that this is a true copy of the original.

REGISTRAR,

SUPREME COURT OF KENYA.

