

5 The background of this application is contained in the affidavit in support and supplementary affidavit in support deponed by **Mr. Kasulu Paul**, the Applicant herein, and is summarized below:

1. That he obtained a demand notice, the official loan account statement as well as a system generated ledger extract and
10 discovered that there is a clear variance between them regarding the outstanding sum.
2. That in its written statement of defence, the Respondent admitted that the parties had previously entered into ten loan contracts.
3. That the mediation case summary and bundle M1-M7 reveal
15 inconsistencies that require clarification through production of the required documents.
4. That therefore he seeks disclosure and reconciliation of the figures through all the amortization schedules, penalty algorithms and internal ledger logic as well as a mathematical reconciliation
20 explaining the variance in the three documents.
5. That on 25th November, 2025 he served the Respondent with a notice to produce documents but the Respondent has not provided the requested documents.
6. That therefore, the Respondent should be compelled to produce the
25 following:
 - a) All loan agreements and offer letters from the very first facility ever extended to him to the last in the series including any emergency loans, loan top-ups or restructures.
 - b) All internal computations, ledger entries and penalty schedules.
 - 30 c) All demand notices, statements and correspondences issued to him during the loan relationship, and

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5 d) A joint account statement covering the entire loan relationship including a detailed summary indicating-

i) The total amount lent to him per year or per loan facility.

10 ii) The total interest, penalties and other charges imposed or earned from him in each corresponding period, and

iii) The cumulative total of all payments made by him across all facilities within the said loan relationship.

15 7. That the documents being requested for are in the Respondent's possession and are necessary for the fair and effective disposal of the suit.

In reply, the Respondent through an affidavit deponed by **Ms. Ritah Harriet Nabuguzi**, with authority to depone an affidavit on behalf of the Respondent, opposed the application contending that:

20 1. The application is a fishing expedition and the documents being sought to be produced relate to giving evidence in Court, which is prejudicial to the Respondent's right to a fair trial.

25 2. The disclosure relates to transactions that are not part of the main suit hence rendering it as broad, ambiguous, vague and burdensome.

3. The Applicant was given copies of every loan agreement and the other documents being sought and has not shown any reason for requiring the Respondent's copies. Further, that the figures can be analyzed in the provided statement and the variances, if any, determined.

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- 5 4. The alleged reconciliation of the demand notice, official statement
 and ledgers require making explanations to the existing documents,
 which can only be done during the trial.
5. The request for a joint statement of account for all the ten loan
 transactions as well as all the loan agreements and amortization
10 schedules for the ten facilities is broad and a fishing expedition since
 they do not form part of the Applicant's claims to be proved in the
 main case thus rendering them irrelevant.
6. The Applicant never served the Respondent with the notice to
 produce documents and the Respondent is not aware of the
15 mediation case summary.

In rejoinder, the Applicant reiterated his previous averments and added that:

1. The Respondent's Counsel physically received the notice to produce
 documents but declined to acknowledge service by stamping or
20 signing.
2. The Respondent is the author and custodian of the financial records
 in dispute and therefore cannot aver that they do not exist.
3. The loan facility of UGX 30,000,000/= was a continuation of an
 existing credit relationship between the parties and part of its
25 disbursement was applied to offset a preceding facility. That
 therefore, it is impossible to reconcile the Respondent's alleged
 indebtedness without reference to the prior facilities.

Representation

The Applicant was self-represented while **M/s NOMAD Advocates**
30 represented the Respondent.

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5 Both parties filed their written submissions. However, i have not seen the need to reproduce them but the same have been considered herein.

Issues for Determination

1. Whether the Court should grant an order for discovery of the documents?
- 10 2. What remedies are available to the parties?

In its affidavit in reply, the Respondent raised preliminary objections to the effect that; the application is premature, frivolous and vexatious, vague, amounts to an abuse of Court process and is fatally defective and therefore it should be struck off with costs. Also, that the Applicant has
15 no cause of action against the Respondent in the plaint.

However, Learned Counsel for the Respondent did not submit on the same and therefore, this Court will infer that the same were abandoned.

Issue No. 1: Whether the Court should grant an order for discovery of the documents?

20 Analysis and Determination

I have carefully considered this application, the affidavit in reply and rejoinder as well as the submissions of both Counsel, to find as herein.

Section 22(a) of the Civil Procedure Act provides that:

25 *“Subject to such conditions and limitations as may be prescribed, the Court may, at any time, either of its own motion or on the application of any party-*

- (a) make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts and*



5 *the discovery, inspection, production, impounding and return
of documents or other material objects producible as
evidence.”*

Order 10 rule 14 of the Civil Procedure Rules also provides that:

10 *“The Court may, at any time during the pendency of any suit, order
the production by any party to the suit, upon oath, of such of the
documents in his or her possession or power, relating to any matter in
question in the suit, as the Court shall think right; and the Court may
deal with the documents, when produced, in such manner as shall
appear just.”*

15 In the case of **Patricia Mutesi Vs Attorney General, HCMA No. 912 of
2016, Hon. Justice Stephen Musota** (as he then was) defined discovery
as:

20 *“... a category of procedural devices employed by a party to a civil or
criminal action, prior to trial, to require the adverse party to disclose
information that is essential for the preparation of the requesting
party’s case and which the other party alone knows or possesses. It
is a device used to narrow the issues in a law suit or obtain evidence
not readily accessible to the Applicant for use at trial and/or ascertain
the existence of information that may be introduced as evidence at
25 trial provided it is not protected by privilege.”*

It is therefore trite that, discovery must not be allowed to be used as a
fishing expedition for the Applicant to build up an unsure case. (See: **John
Kato Vs Muhlbauer AG & Another, HCMA No. 175 of 2011**). The
prerequisites for grant of an order for discovery were laid down in the case

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5 of **Simbamanyo Estates Ltd & Another Vs Equity Uganda Ltd & Others, HCMA No. 583 of 2022** to include:

- 1) Relevancy and materiality.
- 2) Not otherwise privileged or protected by law.
- 3) The document is in the Respondent's possession, custody,
10 control or power; and
- 4) Attempts to obtain the same voluntarily were futile.

In the matter at hand, the Applicant filed **Civil Suit No. 999 of 2025** against the Respondent for breach of contract, institutional concealment, psychological and financial harm arising from the Respondent's conduct
15 in administering a loan facility, refund of UGX 53,477,810/= being the monies paid under protest comprising of excess interest, unearned future interest and unreconciled penalties as well as damages, interest and costs of the suit.

The Applicant's claim is based on the facts that; on 16th May, 2023 he
20 obtained a loan facility of UGX 30,000,000/= from the Respondent repayable within 24 months with an annual interest rate of 72% on a reducing balance and a daily penalty interest of 0.5%. That following the loss of his job, the Applicant requested for a loan restructure which was granted however, the Respondent began charging penalties a day earlier
25 than the agreed start date without any legal basis. Also, that the imposed interest rate of 72% per annum was exorbitant, punitive and lacked legitimate commercial justification. That the Respondent refused to clarify the computation contradictions between the official account statement and the internal ledger extract despite the Applicant's repeated requests
30 and that the Respondent also disregarded the payments effected by the

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5 Applicant and the early repayment clause hence resulting into the loss of the collateral.

In its written statement of defence, the Respondent disputed the Applicant's claim and allegations and contended that the Applicant was its regular customer having previously entered into ten loan transactions
10 and that sometime in 2023, the Applicant approached the Respondent, applied for and was granted a loan facility of UGX 30,000,000/= repayable within 24 months with an interest rate of 6% per month. That the interest was agreed upon, was fair and reasonably appropriate and that the loan was never restructured since the Applicant failed to submit the relevant
15 documents to prove his loss of employment. That the Respondent always informed the Applicant about his loan arrears and that the sale of the collateral was solely concluded by the Applicant, in a bid to settle the outstanding loan, without the Respondent's involvement. Further, that the loan transaction between the parties was fully completed on 31st October,
20 2024 and the mortgage discharged without the Applicant raising any complaints. That therefore, the Applicant has no cause of action against the Respondent, the suit was overtaken by events and that the Applicant should not be granted the remedies being sought.

In the reply to the written statement of defence, the Applicant reiterated
25 his previous averments in the plaint and added that the loan facility was a top up and continuation of the credit relationship and that it was secured only because it refinanced and offset the preceding unsecured loan.

In the instant application, the Applicant now seeks an order for discovery/production of; a reconciliation of the demand notice dated 10th
30 January, 2024, the official statement dated 26th September, 2024 and the corresponding system ledger extract as of 26th September, 2024; a joint

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5 statement of account showing all payments, interest and charges across
all the ten prior facilities as well as all the loan agreements and
amortization schedules for the said ten facilities. The Applicant further
avers that the above documents should include; all the loan agreements
and offer letters from the very first facility ever extended to him to the last
10 in the series including any emergency loans, loan top-ups or restructures;
all the internal computations, ledger entries, penalty schedules, demand
notices, statements and correspondences issued to him during the loan
relationship and that the joint account statement should cover the entire
loan relationship and should include a detailed summary indicating the
15 total amount lent to him per year or per loan facility, the total interest,
penalties and other charges imposed or earned from him in each
corresponding period and the cumulative total of all the payments made
by him across all the facilities within the said loan relationship.

Regarding whether the documents are relevant and material; in the case
20 of ***Kaweesi Sulaiman and 26 Others Vs Bank of Uganda and Another,***
HCMA No. 258 of 2022, Hon. Justice Stephen Mubiru held that:

*“A document is “material” if it is being offered to prove an element of
a claim or defence that needs to be established for one side or the
other to prevail. The Applicant must show a reasonable expectation
25 that the material sought will aid in the resolution of the suit.”*

The Applicant avers that the joint statement of account, the loan
agreements and amortization schedules for the ten prior loans are relevant
because the loan in issue was a top up following a previously unsecured
loan and that it was obtained solely to refinance the said unsecured loan.
30 On the other hand, the Respondent contended that the said documents

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5 are irrelevant to the dispute in the main suit since the Applicant's claim arises from the loan facility that was disbursed in 2023.

According to **clause 1** of annexure "**MB1**" attached to the affidavit in support, a credit facility offer from the Respondent dated 16th May, 2023 to the Applicant, the loan, the subject matter in **Civil Suit No. 999 of**
10 **2025**, was sanctioned to the Applicant so that he could renovate his residential rental houses at Seeta Kigunga Mukono. However, I note that the Applicant had more than one running loan with the Respondent.

Considering that the Applicant's claim in the main suit is based on the loan facility of May, 2023, I find that the joint statement of account
15 showing all the payments, interest and charges across all the ten prior facilities as well as all the loan agreements and amortization schedules for the said ten facilities are irrelevant and immaterial to the resolution of the issues in **Civil Suit No. 999 of 2025**. Therefore, I agree with Learned Counsel for the Respondent that the request for these documents, is a
20 fishing expedition.

The Applicant also seeks the production of a reconciliation of the demand notice dated 10th January, 2024, the official statement dated 26th September, 2024 and the corresponding system ledger extract as of 26th September, 2024 because there is a variation and contradictions regarding
25 the outstanding loan.

I wish to note that the Applicant is in possession of the demand notice dated January, 2024, the official account statement and ledger extract in respect of the loan that was disbursed in May, 2023. These were adduced as annexures "**MB2**", "**MB3**" and "**MB4**" all attached to the affidavit in
30 support of the application.



5 Further, the Respondent averred that the variation and contradictions, if any, can be determined upon analyzing and explaining the documents, which can only be done during the trial.

Considering that the Applicant, in the main suit challenges the said figures as contained in the demand notice, official account statement and ledger
10 extract, I find that the issues regarding the variations and discrepancies in the figures referred to by the Applicant can be resolved during the hearing of the witnesses since the same require an explanation.

In the premises, this issue is answered in the negative.

Issue No. 2: What remedies are available to the parties?

15 Having resolved issue No.1 above in the negative, I find that the application lacks merit and the same is hereby dismissed with costs to the Respondent.

I so order.

Dated, signed and delivered electronically this **23rd** day of **January, 2026**.

20



Patience T.E. Rubagumya

JUDGE

25

23/01/2026

6:40am

Delivered via ECCMIS

Under the Judicature (Electronic Filing, Service and Virtual Proceedings)
30 *Rules, 2025.*