



Manyonge Wanyama & Associates LLP v County Government of Kiambu (Miscellaneous Application E103 of 2024) [2024] KEHC 10516 (KLR) (28 August 2024) (Judgment)

Neutral citation: [2024] KEHC 10516 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
MISCELLANEOUS APPLICATION E103 OF 2024**

A MSHILA, J

AUGUST 28, 2024

BETWEEN

MANYONGE WANYAMA & ASSOCIATES LLP APPLICANT

AND

THE COUNTY GOVERNMENT OF KIAMBU RESPONDENT

JUDGMENT

Background

1. The Applicant filed a Chamber Summons dated 19th June, 2024 under the provisions of Rules 4 & 9 of the *Arbitration Rules* and Section 36 of the *Arbitration Act* and all other enabling provisions of the Law, for orders that;
 - a. The Arbitral Award by the Sole Arbitrator, Shako Florence Karimi Gakungi [Florence Shako] dated 18th June, 2024 be recognized as binding and be enforceable between the parties herein and a decree be issued in accordance therewith.
 - b. The costs of this Application be provided for.
2. The application was served on the Respondent and at the date set down for hearing no objection or appeal had been preferred against the Final Award;
3. The Applicant in canvassing the application relied on the Supporting Affidavit made by Peter Manyonge Wanyama and the certified copy of the Final Award annexed thereto; hereunder is a summary of the Applicant's claim;

Applicants Case

4. The Application was supported by the sworn Affidavit of Peter Manyonge Wanyama who stated that he was competent to swear the affidavit.



5. The dispute between the parties arose from an Advocate- Client fee Agreement dated 1st January, 2016 made with the Respondent to provide legal services in Nairobi Constitutional Petition No.418 of 2015}} for an agreed sum of Kshs.4,000,000/-
6. The Applicant provided the legal services as per the Agreement resulting in the dismissal of the Petition; Respondent failed to uphold its part of the bargain.
7. The Arbitrator Florence Shako was appointed as the sole arbitrator in the matter and she delivered the Award in terms of the Final Award on 18th June, 2024 (marked ‘PMW5’);
8. The Respondent has not taken any steps to set aside the Final Award within the statutory period of 30 days which time has since lapsed;
9. The Applicant prayed that the Final Award be recognized as binding and enforceable as a judgment of this Honourable Court.

Issues for Determination

10. After reading the Application, the Supporting Affidavit and perusing the Annexures this court has framed only one issue for determination;
 - i. Whether the Applicant has made out a case for recognition and enforcement of the Final Award as a judgment of the court;

Analysis

11. Being that the Arbitral process is a consensus, voluntary procedure through which parties choose to resolve their dispute; the court can only intervene in that process as set out under Section 10 of the [Arbitration Act](#) which provides that:

“Extent of court intervention

Except as provided in this Act, no court shall intervene in matters governed by this Act.”
12. Section 32A of [Arbitration Act](#) states:

“Except as otherwise agreed by the parties, an arbitral award is final and binding upon the parties to it, and no recourse is available against the award otherwise than in the manner provided by this Act.”
13. In *Prof. Lawrence Gumbo & Another v Honourable Mwai Kibaki & Others*, High Court Miscellaneous No. 1025 Of 2004, the Court held that:

“Our Section 10 is based on the United Nations Model Law on arbitration and all countries who have ratified it recognize and enforce the autonomy of the arbitral process. Courts of law can only intervene in the specific areas stipulated in the Act and in most cases that intervention is usually supportive and not obstructive or usurpation-oriented...”
14. Under section 32(A) of the [Act](#) an arbitral award is final and binding upon the parties and no recourse is available against the award otherwise than in the manner provided by the [Act](#).



15. The High Court under Section 36 of the [Act](#) has the power to recognize and enforce domestic arbitral award on the following terms:

“ 36

- (1) A domestic arbitral award, shall be recognized as binding and, upon application in writing to the High Court, shall be enforced subject to this section and Section 37
 - (2) ...
 - (3) Unless the High Court otherwise orders, the party relying on an arbitral award or applying for its enforcement must furnish
 - (a) the original arbitral award or a duly certified copy of it; and
 - (b) the original arbitration agreement or a duly certified copy of it.”
16. The Applicant has annexed to the Chamber Summons a certified copy of the Final Arbitral Award (‘Annexure PMW5’). There were no grounds presented to this court by the Respondent as provided by Section 37(1) of the [Arbitration Act](#) that would have vitiated the Final Award; having perused the documents presented and after satisfying itself that the necessary provisions of the law had been complied with this court is satisfied that there are no anomalies in the Final Award that may lead this court to refuse to recognize it as binding.
17. In the absence of any application to set aside the award under the listed grounds for non-recognition or any other challenge or any preferred appeal, this court finds that the Applicant has satisfied the conditions precedent and finds the application to be merited.

Findings and Determination

18. In light of the foregoing this court makes the following findings and determinations;
- i. This court finds the application to be merited and it is hereby allowed;
 - ii. The Final Award dated the 18th June, 2024 and delivered by the Florence Shako the Sole Arbitrator, be and is hereby recognized as binding and adopted as a judgment of this Honourable Court.
 - iii. Judgment be and is hereby entered in terms of the Final Award dated the 18th June, 2024 by the Arbitrator Florence Shako.
 - iv. The Respondent shall bear the costs of this application.

Orders accordingly.

DATED SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 28TH DAY OF AUGUST, 2024.

A. MSHILA

JUDGE

In the presence of;



Mourice – Court Assistant

Peter Wanyama for Applicant

No appearance by Respondent though duly served

