



**Kamau v Banda Homes Limited (Commercial Miscellaneous Application E256 of 2024)  
[2024] KEHC 13356 (KLR) (Commercial and Tax) (31 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13356 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
COMMERCIAL MISCELLANEOUS APPLICATION E256 OF 2024**

**H NAMISI, J**

**OCTOBER 31, 2024**

**IN THE MATTER OF AN APPLICATION TO  
ADOPT THE AWARD DATED 2ND MARCH 2023**

**BETWEEN**

**JANET WANGECHI KAMAU ..... APPLICANT**

**AND**

**BANDA HOMES LIMITED ..... RESPONDENT**

**RULING**

1. The Applicant has filed Chamber Summons dated 26 March 2024 seeking the following orders:
  - i. That the arbitral award published on 2 March 2023 be recognised, adopted and enforced as an Order of this Honourable Court;
  - ii. That this Honourable Court be pleased to grant leave to enforce the Arbitral Award as a decree of this court;
  - iii. That the costs of this Application be provided for
2. The Application is supported by the Affidavit sworn by the Applicant and premised on the grounds on the face of the Application.
3. In her Affidavit, the Applicant deponed that the parties herein entered into an Agreement for sale of immovable property dated 13 February 2018. A dispute arose between the parties, leading to the appointment of an Arbitrator. The Respondent did not co-operate in the appointment of the Arbitrator. The arbitration proceedings culminated in the Final Award which was published on 2 March 2023.



4. Section 36 of the *Arbitration Act*, 1995, provides for the recognition and enforcement of awards as follows:
  - (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
5. I note that despite evidence of service upon the Respondent on numerous occasions, the Respondent did not participate in these proceedings. They did not file any pleadings nor submissions.
6. I also take cognisance of the provisions of Section 35 of the Act that provides for setting aside arbitral awards. In particular, section 35 (3) provides that an application for setting aside the arbitral award may not be made after 3 months have elapsed from the date on which the party making that application had received the arbitral award. The Respondent has not challenged the arbitral award.
7. Consequently, I find that the application dated 26 March 2024 is merited and I therefore allow it with costs to the Applicant.

**DATED AND DELIVERED AT NAIROBI THIS 31 DAY OF OCT 2024**

**HELENE R. NAMISI**

**JUDGE OF THE HIGH COURT**

**Delivered on virtual platform in the presence of:**

N/A .....for the Applicant

N/A.....for the Respondent

