



**Mohawk Limited v Leo Investments Limited (Civil Suit 295 of 2008)
[2023] KEHC 24737 (KLR) (Commercial and Tax) (30 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 24737 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL SUIT 295 OF 2008
JWW MONG'ARE, J
OCTOBER 30, 2023**

BETWEEN

MOHAWK LIMITED PLAINTIFF

AND

LEO INVESTMENTS LIMITED DEFENDANT

RULING

1. Before this court is an application dated 24th May 2013 filed by the Plaintiff/Applicant under Section 37 of the Arbitration Act of the Arbitration Act, 1995 seeking that this honourable court do recognise and adopt the Arbitral Award issued on 11th August 2011 by the sole Arbitrator, Hon. Retired Justice E. Togbor as judgment and decree of this court.
2. The Applicant argues that upon filing the final Arbitral Award that was issued in its favour, the Respondent on 9th November 2011 filed an application to set aside the said arbitral award but failed to prosecute the said application since. The said application was subsequently dismissed on application by the court on 11th October 2012. Subsequently the Respondent moved to the Constitutional Court to have its application reinstated and heard first but took no action to fix the same for hearing. Subsequently and as a result of failure by the Applicant to prosecute its application the same was dismissed by the court for want of prosecution on 24th September 2018 on its own motion.
3. An application to reinstate the suit was allowed by the court on 21st March 2022 was allowed and since the Respondent has not lodged an appeal to contest the dismissal of its application, the Applicant seeks that the court do recognise and adopt the arbitral award of 11th August 2011 issued by Hon. Retired Justice Togbor as a judgment and decree of the court in accordance with Section 32 of the Arbitration Act. The Applicant has complied with the provisions of Section 36 of the Arbitration Act by availing



to this court the original Arbitral Award signed by the Sole Arbitrator on 11th August 2011 and the Arbitration Agreement.

4. The Court notes that there is no pending application to set aside the arbitral award under Section 37 of the Arbitration Act as the same was dismissed for want of prosecution by the court. There is no pending Application to reinstate the dismissed application and no pending Appeal on the same.
5. Flowing from the said observations, the court is satisfied that the Applicant has met the tenets of the Arbitration Act under Section 36 thereto. The application for adoption and recognition of the Arbitral Award issued by the sole arbitrator, Hon. Retired Justice Togbor on 11th August 2011 is hereby recognised and adopted as a judgment and decree of this court.
6. Since the matter has been pending before the courts for the last 11 years, each party is ordered to meet its own costs of the application.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 30TH DAY OF OCTOBER 2023

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J. W. W. MONG'ARE
JUDGE

In the Presence of:-

1. Mr. Kisaka for the Applicant.
2. No appearance for the Respondent.
3. Amos - Court Assistant

