



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MILIMANI COMMERCIAL & TAX DIVISION

CORAM: D. S. MAJANJA J.

CIVIL SUIT NO. E147 OF 2020 (OS)

IN THE MATTER OF THE

FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT

AND IN THE MATTER OF ENFORCEMENT OF JUDGMENT DELIVERED ON 11TH MARCH 2020 IN THE HIGH COURT OF ENGLAND AND WALES, COMMERCIAL COURT, QUEENS BENCH DIVISION IN CLAIM NO. CL-2019-000762

BETWEEN

AMRA LEASING LIMITED.....APPLICANT

AND

DAC AVIATION (EA) LIMITED.....1ST RESPONDENT

DAC INTERNATIONAL AVIATION LIMITED.....2ND RESPONDENT

EMMANUEL ANASSIS.....3RD RESPONDENT

RULING

1. The Originating Summons before the Court is dated 6th May 2020 made under **Order 37 Rule 14** of the **Civil Procedure Rules, Rule 2(1), 2, 3 and 4** of the **Foreign Judgment (Reciprocal Enforcement) Rules** (“the **Rules**”) and **sections 3, 5, 6 and 8** of the **Foreign Judgments (Reciprocal Enforcement) Act (Chapter 43 of the Laws of Kenya)** (“the **Act**”). In the summons, the applicant seeks the following orders:

[1] The judgment delivered on 11th March 2020 in the High Court of Justice England and Wales, Commercial Court, Queens Bench Division, in Claim No. CL-2019-000762 be recognized and registered as a judgment of this Honourable Court as well as be enforced within the jurisdiction of this Honourable Court.

[2] Execution of the judgement delivered on 11th March 2020 in the High Court of Justice England and Wales, Commercial Court, Queens Bench Division, in Claim No. CL-2019-000762 do issue after a period of fourteen (14) days upon service of the Notice of Registration of Judgment on the Respondents; and

[3] The costs of the Originating Summons be provided for.

2. The summons is supported by the affidavit of Tim Fox sworn on 6th May 2020. The depositions demonstrate that the respondents are judgment debtors following judgment entered against them by the High Court of Justice of England and Wales.

3. According to the deposition in support of the summons, the applicant’s case against the respondents arose out of two aircraft lease agreements dated 6th September 2013 and 8th July 2014 each relating to the leasing of Bombardier Q400 aircraft serial no. 4052 and 4065 respectively. The agreements were expressly subject to the jurisdiction of the courts in England and Wales.

4. The applicant alleged breach of the agreements by the 1st respondent. It instituted Claim No. CL-2019-000762 in the Queens Bench Division of the High Court of England and Wales against the 1st respondent and the 2nd and 3rd respondents as guarantors. The claim was served on the respondents who entered Acknowledgements of Service through their legal representative *Bird and Bird LLP* but failed to file their defence within the applicable deadline as extended by the parties to 4.00pm on 6th February 2020. As a result, judgment in default was entered against the respondents on 11th March 2020 for UK Pounds 8,992,980.25.

5. The firm of *K & L Gates LLP* was notified of the judgment entered against the respondents as *Bird and Bird LLP* had ceased to act for the respondents. To date the respondents have not applied to set aside the judgment. They have not satisfied the judgment.

6. The Summons is supported by a certified copy of the judgment and an authenticated certificate issued by the High Court of Justice of England and Wales, Queen's Bench Division, Commercial Court issue pursuant to **section 5(4)** of the **Act** confirming that the case was filed and that judgment was entered against the respondents by the court in England and Wales.

7. I am also satisfied that the respondents duly participated in the proceedings before the court in England and Wales as they were served with the claim, filed an Acknowledgment of Service and were also notified of the judgment through their nominated counsel. This summons is accordingly heard ex-parte.

8. Since the applicant has complied with the **Rules** and noting that the United Kingdom is one of the reciprocating countries under **section 13** of the **Act** and that the sum claimed and ordered to be paid by the court is payable under **section 3** of the **Act**, I allow the summons dated 6th May 2020 and order as follows:

(a) THAT the judgment delivered on 11th March 2020 in the High Court of Justice England and Wales, Commercial Court, Queens Bench Division, in Claim No. CL-2019-000762 be and is hereby recognized and registered as a judgment of this Honourable Court and a decree shall issue accordingly.

(b) THAT Notice of Registration of the Judgment do issue and the same shall be served upon the respondents.

(c) The respondent shall bear costs of the application.

DATED and DELIVERED at NAIROBI this 29th day of MAY 2020.

DAVID S. MAJANJA

JUDGE

Court Assistant: Mr. M. Onyango

Ms Akal instructed by Coulson Harney LLP for the applicant.