



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL AND TAX DIVISION

MISCELLANEOUS APPLICATION NO. E504 OF 2019

MARTIN MUTISYA MUTHENGI

CATHERINE MUNANIE MUTISYA.....CLAIMANTS/APPLICANTS

-VERSUS-

NATIONAL OLYMPIC COMMITTEE OF KENYA.....RESPONDENT

RULING

1. Through the application dated 5th August 2020, the applicants seek the following orders:

1. Spent

2. That this Honourable court be pleased to compel the Respondent to release Kshs 2,473,721/= being the final instalment of the arbitral award of 18th September 2019 and consent dated 16th December 2019.

3. That alternatively, the court to order KCB Group Ltd to release the funds held unconditionally.

4. That the costs of this application be in cause.

2. The application is supported by the 1st Applicant's affidavit and is premised on the grounds that: -

1. That the claimants and the respondent signed a consent order dated 16th December 2019 for the respondents to be paying the arbitral award of Kshs 8,473,721/= in monthly instalments of Kshs 2,000,000/-.

2. That the respondent has so far paid Kshs 6,000,000/- remaining a balance of Kshs 2,473,721/= which they are reluctant to pay despite several demands.

3. That the claimant has already fulfilled his part of the agreement and/or consent by removing the caveat lodge against the respondent's property.

4. That in the interest of justice that the present application be allowed as prayed.

3. The Respondents did not oppose the application despite proper service as shown in the affidavit of service dated 17th November 2020.

4. I have perused the application together with the supporting affidavit and annexures. I note that it is a straight forward application for the payment of monies due to the applicants pursuant to a consent order made following an arbitral award.

5. I am satisfied that the applicant has made out a case for the granting of the orders sought in the application which I hereby allow as prayed, with costs to the applicant.

Dated, signed and delivered via Microsoft Teams at Nairobi this 17th day of December 2020 in view of the declaration of measures restricting court operations due to Covid -19 pandemic and in light of the directions issued by his Lordship, the Chief Justice on the 17th April 2020.

W. A. OKWANY

JUDGE

In the presence of:

No appearance for the parties

Court Assistant: Sylvia