

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL & ADMIRALTY DIVISION

MISC. 40 OF 2018

ARIF AHMEDALI SITAFALWALA.....APPLICANT

VS.

AFRICARE LIMITED (MEDANTA).....RESPONDENT

RULING

1. An issue has arisen that may not have been raised by the Applicant when he filed the Notice of Motion of 19th June 2018.
2. In the course of responding to the application for setting aside, it has turned out that one Victor Thairu who is a legal officer with the Respondent at one time worked as an associate in the firm of Kariuki Muigai and Company which is the current employer of Mr. Timothy Njenga, the Arbitrator herein. The Respondents now take up the issue of conflict of interest and fault the Arbitrator for failing to make a disclosure of that possible conflict.
3. Given the binding and final nature of Arbitral Awards the Court takes the view that this matter is important enough as to warrant full interrogation.
4. For this reason I direct that the application herein, all replies and submissions be served on the Arbitrator to enable him make an answer to the issue raised. The Arbitrator shall file his reply within 30 days of service.

Dated, delivered and signed in open Court at Nairobi this 27th day of September 2019.

F. TUIYOTT

JUDGE

PRESENT:-

Mugesca for Applicant

Malulu for Onsare for Respondent

Court assistant: Nixon