



**Mohamed v Riverpoint Development Limited (Environment and Land Civil Miscellaneous Application E024 of 2023) [2023] KEELC 22372 (KLR) (8 December 2023) (Ruling)**

Neutral citation: [2023] KEELC 22372 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND CIVIL MISCELLANEOUS APPLICATION E024 OF 2023  
MD MWANGI, J  
DECEMBER 8, 2023**

**BETWEEN**

**MUHYADIN MOHAMED ..... APPLICANT**

**AND**

**RIVERPOINT DEVELOPMENT LIMITED ..... RESPONDENT**

**RULING**

**Background:**

1. What is before me for determination is the Chamber Summons dated 11<sup>th</sup> July, 2023 seeking the recognition, adoption and enforcement of the arbitral award delivered on 11<sup>th</sup> November, 2022 under Section 36 of the Arbitration Act and Rules 4(1) and 9 of the Arbitration Rules amongst the other cited provisions of the Law. It is premised on the grounds on the face of it and on the supporting affidavit of Muhyadin Mohamed sworn on the 11<sup>th</sup> July 2023.
2. The applicant explains the sequence of events up to the delivery of the arbitral award by the sole Arbitrator, Cecil L. Kuyo. The award was delivered and published on 11<sup>th</sup> November 2022. A copy of the award has been attached to the supporting affidavit. It is the Applicant's position that the award has not been challenged or otherwise disputed since its delivery. He therefore prays that the award be recognized, adopted and enforced as a Judgement/Decree of this court.
3. Despite service upon the Respondent through its Advocates, it did not respond to the application.

**Determination:**

4. Under the Arbitration Act, 1995, a domestic arbitral award shall be recognized as binding, and on an application in writing to the High Court, it shall be enforced subject to the provisions of Sections 36 and 37 of the Act. Any Party is at liberty to apply for the enforcement of the arbitral award.



5. Section 37 of the *Arbitration Act* provides the ground on which the Court may refuse to recognize an arbitral award. The Court may, at the request of the party upon whom the arbitral award is to be invoked refuse to enforce the award, if the party proves any of the following:
  - a. That the party was under incapacity;
  - b. That the arbitration agreement was under incapacity;
  - c. That the arbitration agreement is not valid under the applicable Law;
  - d. That proper notice of appointment or arbitral award was not given the party or otherwise the party was unable to present his case;
  - e. That the award does not fall within or is incurably beyond the scope of the reference to arbitration; or
  - f. That the Composition of the arbitral tribunal was not as per the parties' agreement or was afoul the Law applicable to the arbitration.
6. The Court may also on its own motion or upon request by a party, refuse to enforce an arbitral award on the grounds provided under Section 37 (i) of the *Act*. This would be in cases where the Court finds that the subject matter of the dispute is not referable to arbitration under the Laws of Kenya; or its enforcement would be contrary to the public policy in Kenya.
7. Having carefully considered the application before me and the contents of the arbitral award, I find no reason to decline to enforce the arbitral award delivered and published on 11<sup>th</sup> November 2022 by the sole Arbitrator, Cecil L. Kuyo.
8. The application herein is hereby allowed as prayed; meaning that:
  - a. That the Arbitral award dated and delivered on the 11<sup>th</sup> Day of November, 2022 at Nairobi by Cecil L. Kuyo, FCIARB (sole arbitrator) between the parties herein be recognized, adopted, enforced as judgment of this Honourable Court.
  - b. That this Honourable Court be pleased to grant leave to the Applicant to enforce the said Arbitral Award as a Decree of this Honourable Court, and
  - c. The costs of the application shall be in the cause.
9. However, before the issuance of the formal order, the Applicant shall present to the Deputy Registrar of this Court, a duly Certified Copy of the arbitral award; duly Certified by the Arbitrator.
10. It is so ordered.

**RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 8<sup>TH</sup> DAY OF DECEMBER, 2023.**

**M.D. MWANGI**

**JUDGE**

