



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MILIMANI COMMERCIAL & ADMIRALTY DIVISION**

**Misc. Civil Suit No. 416 Of 2013**

**IN THE MATTER OF THE ARBITRATION ACT, 1995 AND IN THE MATTER OF THE  
ARBITRATION RULES 1997**

**AND**

**IN THE MATTER OF AN APPLICATION FOR ADOPTION OF AN ARBITRATION AWARD  
DATED 26TH FEBRUARY 2007**

**AND**

**IN THE MATTER OF AN ARBITRATION**

**BETWEEN**

**REEF BUILDING SYSTEMS LIMITED ::::::::::::::: CLAIMANT**

**VERSUS**

**CITY COUNCIL OF NAIROBI ::::::::::::::: RESPONDENT**

**R U L I N G**

1. The application before the court is a **Chamber Summons** dated **13th March 2014** filed in court on the 18th March 2014. The application is filed pursuant to Section 36 of the Arbitration Act, 1995 and Rules 4, 9 and 11 of the Arbitration Rules, 1997, and seeks the following orders:-
  1. ***That the arbitration award made by M/s Norman Mururu and Paul T. Gichuhi dated 26th February 2007 and filed herein be adopted and enforced as a judgment of this court.***
  2. ***The Honourable court do give the Applicant leave to enforce the award as a decree of this court.***
  3. ***The court be pleased to direct that the costs of this application be borne by the Claimant Reef Building Systems and that the costs of the reference and legal costs awarded to the Respondent in the arbitral award be taxed by the Registrar of the court.***
2. The application is premised on the grounds set out therein.
3. In brief, the Applicant's case is that the arbitral award made on 26th February 2007, together with a certified copy of the agreement carrying the arbitration clause, Clause 67.3 and concurring letters for appointment of the arbitrators M/s Norman Mururu and Paul T. Gichuhi 20th September 2013 duly filed in court and the requisite filing fees Kshs.10,000.00 paid. The Applicant further states that a Notice of the filing the award in court was duly served upon the Claimant. No

application to set aside the arbitral award made in accordance with Section 35 of the Arbitration Act 1995. The Claimant has not challenged and/or appealed against the award within the prescribed period. The Applicant herein was awarded in the award both the costs of the reference as well as legal costs yet to be assessed. The Applicant desires to enforce the award and it is necessary that the court first adopts it before execution.

4. I have carefully considered the application. It is on record that no application has been moved in this court to set aside the above arbitral award pursuant to Section 35 of the Act. This means that the party filing the award is at liberty to apply ex-parte for leave to enforce the award as a decree. The arbitral award was lodged in court on 20th September 2013 and upon obtaining the case number, the notice for lodging the award dated 15th January 2014 was served upon the Claimant on 24th January 2014 as per the Affidavit of Service by Allan Nguri Njenga filed in court on 18th March 2014. There was no application to set aside the award and so the current application was filed on 18th March 2014. I am therefore satisfied that under Rule 6 aforesaid, this application is ex-parte and is merited, and I allow it as prayed in the said Chamber Summons dated 13th March 2014.

Orders accordingly.

**READ, DELIVERED AND DATED AT NAIROBI THIS 20TH DAY OF FEBRUARY 2015**

**E. K. O. OGOLA**

**JUDGE**

**PRESENT:**

Mr. Karanja holding brief for Bwire for Claimant

No appearance for Respondent

Teresia – Court Clerk