



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL & ADMIRALTY DIVISION
MISCELLANEOUS CIVIL SUIT NO. 322 OF 2014
IN THE MATTER OF THE ARBITRATION ACT NUMBER 5 OF 1995
AND
IN THE MATTER OF AN ARBITRATION BETWEEN
KABCO CONTRACTORS LIMITED ::::::::::: CLAIMANT
VERSUS
UNITY COURT LIMITED ::::::::::: RESPONDENT

R U L I N G

1. The application before the court is a **Chamber Summons** dated 4th February 2015 and filed in court on 18th February 2015 under Section 36(1) of the Arbitration Act by the Claimant. The application seeks the following orders:-
 1. ***That arbitral award and the supplementary award made on the 10th February 2014 and 10th June 2014 be enforced.***
2. ***That a decree be issued in favour of the Claimant against the Respondent in terms of the said award and the supplementary award.***
3. ***Costs of the application be met by the Respondent.***
2. The application is premised on the grounds that the Respondent has failed to provide security for the enforcement of the award as ordered by this court on 16th January 2015, and that both the Arbitral Award and the supplementary award dated 10th February 2014 and 10th June 2014 remain unsettled to date. In the premises it is in the interest of justice that an order for enforcement of the award and the supplementary award be issued.
3. The application is supported by affidavit of **James Njeru Kathenya** sworn on **18th February 2015**. Mr. Kathenya describes himself as the Managing Director of the Claimant Company. He deponed that the Respondent has failed to settle the two awards despite being notified of the same and being required to pay the same.
4. The application is not opposed. When the same came for hearing on 24th April 2015 an advocate called Kuria held brief for Mr. Githinji and applied for adjournment which was not allowed. Mr. Kuria was not ready to proceed with the hearing of the application since he said his instructions were limited to applying for adjournment.
5. I have carefully considered the application. I have noted the award made on 10th February 2014 and a supplementary award made on 10th June 2014. On 16th January 2015 this court ordered

the Respondents to provide security for the enforcement of the awards within 7 days of that Ruling, but the Respondent has not done that. In that event, the application for the enforcement of the award is merited.

6. In the upshot, the Chamber Summons application dated 4th February 2015 is allowed as prayed with costs to the Claimants.

Orders accordingly.

READ, DELIVERED AND DATED AT NAIROBI THIS 29TH DAY OF MAY 2015

E. K. O. OGOLA

JUDGE

PRESENT:

Mr. Kiriaria for the Claimants

No appearance for the Respondent

Teresia – Court Clerk