



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL & TAX DIVISION

CIVIL CASE NO. MISC. APPL. 1017 OF 2010

JOSEPH PAUL MWANGOVYA.....PLAINTIFF

VERSUS

**KEWAL CONTRACTORS
LIMITED.....DEFENDANT**

RULING

This Ruling is delivered in the ex-parte Chamber Summons dated 5th November 2010, brought under **Section 36(1), (3) (a) and (b)** of the **Arbitration Act** and **Rules 4(1) and (2), 6 and 9** of the **Arbitration Rules 1997**. The Applicant seeks this court's order for the recognition and enforcement of the arbitral award in the arbitral proceedings between the Applicant and the Respondent heard and determined by Mr. Dan K. Ameyo, Arbitrator, during the period 9th July 2009 to 2nd August 2010.

The award sought to be enforced is double thronged as follows:

- 1. The Award made on 17th March, 2010**
- 2. The Final Award made on 2nd August 2010**

Duly certified copies of the above two awards were filed with the court on 3rd November 2010 together

with a certified copy of the contract between the parties under which the Arbitration Agreement is set out under Clause 4 thereof. Thus, the requirements of **Section 36(2)** of the **Arbitration Act** have been complied with.

The application is premised on the ground that the Respondent has had due notice of the Awards and has not made any application to have the same set aside under **Section 35** of the **Arbitration Act**, in which case the same are binding and should be recognized as such. The application is supported by the affidavit of Stephen Omondi Owino, learned counsel for the Applicant, to which is annexed copies of the Awards, the contract forming the basis of the agreement and dispute thereunder, correspondence relevant to the appointment of the arbitrator, copies of the two arbitral awards, a copy of the arbitrator's publication of the award, a copy of the arbitrator's invoice and copies of correspondence exchanged between the parties in relation thereto, leading to the payment of the arbitrator's fee by the Applicant and the delivery of the Awards to the parties on 2nd August 2010. The Award and Final Award have not been satisfied.

Over three months have elapsed since the delivery of the award to the parties and no application having been made to have the same set aside. That being the case, the arbitral awards herein are hereby recognized as binding and enforceable by way of a decree, the court being satisfied of the merits of the application in that the requirements of **Section 36(1)** of the **Arbitration Act** and the relevant rules thereunder have been met and that there exists no ground upon which to refuse such recognition.

Accordingly the application is allowed and orders granted as prayed, with judgment being entered in the terms of the Award and Final Award with interest as prayed.

DATED, SIGNED and DELIVERED at NAIROBI this 11TH day of MARCH, 2011

M. G. MUGO

JUDGE

In the presence of:

Mr. S. Owino

For the plaintiff

Ex parte

For the defendant