



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

(MILIMANI COMMERCIAL & TAX DIVISION)

MISC. APPLICATION NO. 326 OF 2009

**IN THE MATTER OF THE ARBITRATION ACT 4 OF 1995 AND THE ARBITRATION
RULES, 1997**

AND

**IN THE MATTER OF AN APPLICATION FOR ADOPTION OF AN ARBITRATION AWARD
DATED 14TH AUGUST, 2008**

EQUITY BANK LIMITEDAPPLICANT/MORTGAGE

AND

IN THE MATTER OF AN ARBITRATION

BETWEEN

**KENYA TEA DEVELOPMENT AGENCY
LIMITED.....APPLICANT**

VERSUS

**MADISON INSURANCE COMPANY
LIMITED.....RESPONDENT**

R U L I N G

The application has been brought through chamber summons under Section 36 (1) of the Arbitration Act, 1995 and Rules 6, 9 and 11 of the Arbitration Rules 1997 and all other enabling provisions of the law. The said application seeks the authority orders:

- 1. This Honourable Court be pleased to adopt the final award delivered by J. B.Havelock, Arbitrator on the 14th August, 2008 as a judgment of this Honourable Court;**
- 2. The Honourable Court do give the Applicant leave to enforce the award as a decree of this Honourable Court;**
- 3. The costs of this application be payable by the Respondent.**

The application is grounded on the grounds as the face of the same. Apart from the above application the application has been supported by the affidavit of Mr. Christopher M'maiti who has deponed that he is

the Head of Legal & Authority Affairs in the applicant.

According to the deponent, when a dispute arose between the parties, the same was referred to the arbitration of Mr. J. B. Havelock who duly heard and determined the dispute. Consequently, the Arbitrator made an award on the 14th August, 2008 in favour of the applicant.

Despite the fact that the said award has already been filed in this cause, the respondent has neither applied to set aside the same nor satisfied the same accordingly to its tenor.

After carefully considering the application together with the attached affidavit I hereby concede to the same in terms of Prayer No. 1 and 2. Apart from the above, I hereby direct that the respondent bears the costs of the application.

MUGA APONDI
JUDGE

Ruling read signed and delivered in open court in the presence of:

Bwire - Applicant's Counsel
Respondent's Counsel – Absent.

MUGA APONDI
JUDGE
21ST APRIL, 2010