

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

MISC APPLI 834 of 2005

THE BOARD OF GOVERNORS,

ST. JOHN'S COLLEGE PLAINTIFF/APPLICANT

Versus

JOHN NGANYI LIBOYI DEFENDANT/RESPONDENT

RULING

In this Originating Summons dated 14th August 2006, the Plaintiff is seeking this court's order that:

"the judgement of Portsmouth County Court for Sterling Pounds 13,731 be registered for execution in this Honourable Court."

The Plaintiff/Applicant also seeks costs of this Originating Summons.

The said Originating Summons is brought under The Foreign Judgment (Reciprocal Enforcement) Act, Chapter 43 Laws of Kenya, more specifically Section 5 of that Act. Portsmouth Country Court is a court in the United Kingdom and there is no dispute that its judgments are, under the provisions of the above mentioned Act, registrable and enforceable in Kenya.

The Originating Summons is however opposed by the Defendant who is relying upon the grounds of opposition he filed dated 24th August 2006 as well as his replying affidavit sworn also on 24th August 2006 which were re-enforced by the case authorities cited by his counsel.

While I am open minded, I do find that all that has been said in support of the opposition to this Originating Summons relates to issues other than the issue of the prevention of the registration of a foreign judgment. In other words, the authorities cited were concerned with foreign judgments after they had been registered and therefore are not useful authorities in this Originating Summons which is not intended to look into the merits of the foreign judgment especially in circumstances such as that obtaining in this suit where the Defendant has so far done completely nothing in the way of appealing against or otherwise challenging that Foreign judgment in the United Kingdom.

That being the position, I find no good reason for refusing to grant the Originating Summons. Accordingly the said Originating Summons is hereby granted as prayed.

Dated this 26th Day of October, 2007.

J. M. KHAMONI

JUDGE