

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

(MILIMANI COMMERCIAL COURTS)

Civil Case 515 of 2000

**THIKA WAX WORKS LIMITED
.....PLAINTIFF**

VERSUS

VIVEK MEHTA T/A STRATFORD SUPPLIES & SERVICESDEFENDANT

RULING

The Plaintiff has moved this court by virtue of Section 36(1) of The Arbitration Act. The Plaintiff seeks the order of recognition and enforcement of the final Award of the sole Arbitrator A. F. Gross dated 26th June, 2006. The Plaintiff filed an affidavit in support of the application sworn by the Plaintiff's General Manager. He deponed that on 11th May, 2005 the Plaintiff and the Defendant entered into a consent which was filed in this matter whereby the parties agreed that the matter be referred to arbitrator A. F. Gross as the sole arbitrator. That after the parties filed their respective claims and defences the matter was heard and concluded before the said arbitrator. The arbitrator made a finding in favour of the Plaintiff dated 26th June, 2006. Subsequent to that finding the Defendant's advocate corresponded with the Plaintiff's advocate whereby the defendant made proposals for settlement of the Award. Further the Defendant personally called on the Plaintiff's representative seeking to pay less than the amount of the Award. The Plaintiff general manager finally stated that the Plaintiff seeks an order for enforcement of the Award of the sole Arbitrator. The application was unopposed and even though the Defendant was represented at the hearing there was no submission made in opposition to the Plaintiff's application. Section 36(1) of The Arbitration Act provides that an arbitral award irrespective of the state in which it was made, shall be recognized as binding upon an application in writing to the High Court. The requirement placed upon the applicant is that it would file an authenticated original arbitral award and the original arbitral agreement. The Plaintiff in this case filed the consent reached by the parties agreeing to go to arbitration before a single arbitrator. Further the Plaintiff has filed a certified arbitral award. The court therefore, is of the view that the orders sought by the Plaintiff ought to be granted as prayed. The court therefore grants the following orders:-

- 1. That the final award of the sole arbitrator A. F. Gross dated 26th June, 2006 between the Plaintiff and the Defendant is hereby recognized by this Honourable court.**
- 2. That the court grants leave to the Plaintiff to enforce the award as a decree hereof.**
- 3. That the costs of the Chamber Summons dated 19th September, 2006 are awarded to the Plaintiff.**

MARY KASANGO

JUDGE

Dated and delivered this 23rd October, 2006.

MARY KASANGO

JUDGE