



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI COMMERCIAL COURTS)**

Misc Appli 472 of 2004

FRANCIS K.E. HINGA PLAINTIFF

VERSUS

GEORGE B. NYANJA DEFENDANT

R U L I N G

This is an application brought under Section 36 of the Arbitration Act, 1995; Rule 6 of the Arbitration Rules, 1997 and all other enabling and empowering powers and provisions of the law. The application is by the claimant who seeks an order that the award made on 7.1.2003 by Arbitrators James Kinyua and Robert Kamiti be recognized as binding and be enforced between the parties herein and a decree of this Court do issue in accordance therewith. The claimant also seeks costs and expenses as are incidental to the enforcement and execution of the award.

The application which is supported by an affidavit of the claimant is based upon the following grounds:-

- (1) That by agreement the claimant/applicant and the respondent herein submitted the dispute between them to arbitration;**
- (2) That in an award dated 7.1.2003 the said arbitrators awarded the claimant/applicant the sum of Kshs.1,602,500.00;**
- (3) That the respondent has refused, neglected or otherwise failed to pay the said sum of Kshs.1,602,500.00;**
- (4) That the respondent has to-date not applied to set aside the award under Section 35 of the Arbitration Act, 1995 or at all.**

I have perused the affidavit in support of the application. I have also perused the record of this matter. I have finally given due consideration to the submissions made to me by Counsel for the claimant. Having done so, I am satisfied that all the legal requirements have been met by the claimant/applicant. There is therefore no impediment to the grant of the orders sought. There is no doubt that an arbitral award was made in favour of the claimant. A copy of the same is exhibited as "A" by the applicant in his supporting affidavit. The same was duly filed and no application to set it aside has been made. The award is binding upon both parties and the respondent has not satisfied the same. In the premises the application is merited. Accordingly I make the following orders:-

(1) That the arbitral award made on 7.1.2003 by

M/S James Kinyua and Robert Kamiti be and

is hereby recognized;

(2) That judgment be and is hereby entered in terms

of the award and the same be enforced as a decree

of this court.

(3) That the respondent do bear the costs of this

application as well as such costs and expenses as

are incidental to the enforcement and execution

thereof.

Orders accordingly.

DATED at NAIROBI this 19th day of December 2006.

F. AZANGALALA

JUDGE

MARY KASANGO

JUDGE