



**Guojun v Huadong (Miscellaneous Application E326 of 2024)
[2025] KEHC 3530 (KLR) (Commercial and Tax) (13 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3530 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS APPLICATION E326 OF 2024
CJ KENDAGOR, J
MARCH 13, 2025**

BETWEEN

QIAN GUOJUN APPELLANT

AND

GUO HUADONG RESPONDENT

RULING

Introduction

1. The Applicant and the Respondent submitted themselves to arbitration before an Arbitrator. The matter proceeded, and the parties were heard. When the matter was pending the publication of the award, the parties underwent a voluntary mediation in which they were able to resolve the commercial dispute that was the subject of the arbitration. However, a dispute arose about who was to pay the costs arising out of the arbitration.
2. The Applicant maintained that there was a full settlement of the commercial dispute but no settlement on the issue of costs. He maintained that the various deeds of variation to settlement signed by the parties did not address the issue of the Arbitral costs. The Respondent on the other hand maintained that the deeds of variation as to settlement covered all aspects of the Arbitration, including costs, and that parties had agreed that each party was to bear their own costs.
3. However, this particular issue is not available for this Court to determine because it was settled by the High Court in Nairobi in Miscellaneous Civil Application No. E327 of 2024 where the Court agreed with the Applicant and held as follows;

“37. On the question as to whether there was a settlement on the issue of the Arbitral Costs the Court notes that there was no written settlement. The



parties appear to have reached a mediation settlement on all other issues save as to costs.”

4. The Applicant served the Respondent with the Party and Party Bill of Costs for Assessment seeking Kshs.8,230,476.24/=. The Respondent filed an application dated 11th October, 2023 seeking to dismiss the Bill of Costs Application. The Arbitrator dismissed the Respondent’s Notice of Motion Application with costs which were to be paid within 14 days from the collection date of the award, failure to which the Respondent herein would pay interest at 2% above the current Central Bank of Kenya rates until payment in full. This was the Tribunal’s Award One, dated 25th January, 2024.
5. The Arbitrator assessed the costs and ordered that the Respondent bear the costs of the Tribunal’s Award No. One in the sum of Kshs.262,134.00 (inclusive of VAT), and if the Applicant had already paid the costs, the Respondent should then immediately reimburse the Applicant the amount paid, failure to which the Respondent would pay interest at 2% above the current Central Bank of Kenya rates until payment was received in full.
6. The Applicant has brought the current application seeking to adopt the said award and sought the following orders;
 1. That the Arbitrator’s final Award No One dated 25th January 2024, between Gu Huadong and Qian Guojun be adopted as an award of this Honourable court to which:
 - a. The Claimant-Applicant’s Notice of Motion Application dated 11th October, 2023 was dismissed with costs to the Respondent to be paid within 14 days of the collection of the Hon Arbitrator’s Award, failing which the Claimant-Applicant would pay interest at 2% above the current Central Bank of Kenya rate until payment is received in full.
 - b. The Claimant was to pay the costs of the Tribunal’s Award in the sum of Kshs.262,134/=:, and if such costs had been paid by the Respondent, the Claimant-Applicant should immediately reimburse the Respondent the amount paid, failure to which the Claimant-Applicant would pay interest at 2% above the current Central Bank of Kenya rates until payment was received in full.
 2. That a Decree is issued to reflect the orders of the Hon. Arbitrator.
 3. That the costs of this application and the entire suit be awarded to the Applicant.
7. The Application is supported by an affidavit sworn by Qian Guojun dated 12th April 2024.
8. The Application was canvassed by way of written Submissions. Both parties filed their respective submissions which I have carefully considered. Upon analyzing the rival arguments, the issue that is for determination is whether the Tribunal’s Award One, dated 25th January, 2024, should be recognized and enforced as a judgment of this court.
9. I note that the High Court in Nairobi in Miscellaneous Civil Application No. E327 of 2024 pronounced itself on the validity of the Tribunal’s Award One, dated 25th January, 2024. In that matter, the Respondent filed a Chamber Summons application dated 6th June, 2024, asking the Court to set aside the Tribunal’s Award One, dated 25th January, 2024. The Applicant filed a Replying Affidavit to the Respondent’s Chamber Summons dated 26th July, 2024. The Respondent filed a Supplementary Affidavit dated 30th September, 2024. The court considered the application at length and delivered a Ruling on 7th November, 2024 in which it dismissed it and upheld the Award.



10. For avoidance of doubt, the High Court in Nairobi in Miscellaneous Civil Application No. E327 of 2024 held as follows;

“ 55. The application by was of a Chamber Summons dated 6th June, 2024 seeking to set aside the Award No. One dated 25th January 2024 and the Award of costs dated 26th January 2024 given and made by the Hon. Njeri Kariuki in the Arbitral Proceedings between the Applicant and the Respondent is hereby dismissed.”

11. Based on this background, the only issue remaining is whether this Court should adopt the award as an order of this Court. There being a Court determination upholding the validity of the Award, this Court finds no reason to deny the Applicant the prayers sought in the application before me. The Application to recognize the Award and adopt it as an order of this Court is hereby allowed. The Tribunal’s Award One, dated 25th January, 2024 is hereby recognized and adopted as a decree of this Court.

Disposition

12. The Application is allowed with no order as to costs.

13. The Tribunal’s Award One, dated 25th January, 2024 is hereby recognized and adopted as a decree of this Court.

14. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 13TH DAY OF MARCH, 2025.

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Ms. Njoroge Advocate for the Applicant

Ms. Zaynab Advocate for the Respondent

