



**Mwakodi v Kithuku (Judicial Review Miscellaneous Application E119 of 2025)  
[2025] KEHC 5771 (KLR) (Judicial Review) (9 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 5771 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
JUDICIAL REVIEW  
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E119 OF 2025**

**RE ABURILI, J**

**MAY 9, 2025**

**BETWEEN**

**CAROLINE MUTHEU MWAKODI ..... APPLICANT**

**AND**

**JOSHUA MUSYOKI KITHUKU ..... RESPONDENT**

**RULING**

1. The chamber summons dated 6<sup>th</sup> May 2025 seeks leave of this court to apply for Judicial Review orders of certiorari to remove into this court and quash the entire arbitral award proceedings and the award rendered on 7/3/2024 on the ground that the award was rendered without the knowledge of the applicant or her participation thereby denying her the right to fair administrative action and a fair hearing.
2. The applicant also combines in one paragraph, the prayer for leave to apply for Judicial Review orders of prohibition to prohibit the Respondent and Interested party from enforcing, executing, registering, adopting and or otherwise relying on the said arbitral award or instituting any enforcement proceedings based on the same; and that leave do operate as stay of enforcement of the said arbitral award until the main motion is heard and determined,.
3. Before delving into the merits of the prayer for leave, it is important to first determine whether the application is urgent. I do not find any urgency involved. I decline to certify it as urgent.
4. However, because there are jurisdictional issues involved, I shall determine whether the application is competently before this court. Section 35 of the *Arbitration Act* provides for grounds or legal mechanisms for challenging an arbitral award and therefore an aggrieved party or person can apply for setting aside of the arbitral award.



5. The grounds for setting aside include;
  - a. Incapacity of a party;
  - b. Invalid arbitral agreement;
  - c. Lack of proper notice;
  - d. Award deals with issues outside the scope of arbitration;
  - e. Conflict with public policy.
6. The applicant has annexed copy of the arbitral award dated 7/3/2024 and the chamber summons dated 27/4/2023 for adoption of the Arbitral Award vide Misc E032/2025.
7. It is not clear in which court Division the Arbitral award has been filed for adoption as the citation simply names the High Court of Kenya at Nairobi, Milimani Law Courts. Milimani law Courts houses the High Court with its many Divisions as established under section 11 of the High Court Organization and Administration Act. None of the Divisions is cited as hosting the application for adoption of the arbitral award hence this court cannot tell which court is seized of the matter.
8. The Arbitral award was made, arising from a loan agreement. That is a contractual matter which is not within the province of Judicial Review. The proper procedure for challenging arbitral awards is in the *Arbitration Act*.
9. I find that the application dated 6/5/2025 is incompetently filed before this court. I strike out the chamber summons dated 6/5/2025 with no orders as to costs.
10. The applicant to approach the correct Division of the High Court and seek appropriate orders for challenging an Arbitral award.
11. This file is closed.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 9<sup>TH</sup> DAY OF MAY, 2025**

**R.E. ABURILI**

**JUDGE**

