



**Kamiti v Oseko & Ouma Advocates LLP (Commercial Case E693 of 2022)  
[2024] KEHC 2431 (KLR) (Commercial and Tax) (7 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 2431 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
COMMERCIAL CASE E693 OF 2022**

**AA VISRAM, J**

**MARCH 7, 2024**

**BETWEEN**

**SAMUEL GACHIE KAMITI ..... APPLICANT**

**AND**

**OSEKO & OUMA ADVOCATES LLP ..... RESPONDENT**

**RULING**

1. I have considered the application dated 26<sup>th</sup> September, 2022, together with the supporting affidavit sworn on even date, the grounds of opposition dated 7<sup>th</sup> November, 2022, together with the rival submissions made by the parties and applicable law.
2. The Applicant is seeking recognition and enforcement of the arbitral award dated 21<sup>st</sup> December, 2020, and rectified on 24<sup>th</sup> February, 2021.
3. Section 36 of the *Arbitration Act* provides as follows:-  
Recognition and enforcement of awards
  - (1) A domestic arbitral award, shall be recognized as binding and, upon application in writing to the High Court, shall be enforced subject to this section and section 37.
  - (2) An international arbitration award shall be recognised as binding and enforced in accordance to the provisions of the New York Convention or any other convention to which Kenya is signatory and relating to arbitral awards.
  - (3) Unless the High Court otherwise orders, the party relying on an arbitral award or applying for its enforcement must furnish—
    - (a) the original arbitral award or a duly certified copy of it; and



- (b) the original arbitration agreement or a duly certified copy of it.
- (4) If the arbitral award or arbitration agreement is not made in the English language, the party shall furnish a duly certified translation of it into the English language.
- 4. I am satisfied that the above requirements have been complied with. Looking at the record, a certified copy of the award is found at Exhibit SGK 5 and a certified copy of the arbitration agreement is found at Exhibit SGK1 of the Applicant’s affidavit. Further, no live application for setting aside or refusal of recognition or enforcement is pending before the court at present.
- 5. I take further note that the said Award reserves the jurisdiction of the tribunal to make a further award on costs, and that the present award is published ‘save as to costs’. It was not in dispute that the tribunal has already issued a ruling on the contested issue of whether or not it has jurisdiction to render a further award on costs in the affirmative, and that the same has not been challenged before the High Court. Accordingly, I am of the view that this court ought not divest the tribunal of its jurisdiction absent a successful challenge.
- 6. Accordingly, I find that the application dated 26<sup>th</sup> September, 2022, is with merit and succeeds in part. The orders of the court are as follows:-
  - a. The final award of the Arbitrator dated 21.12.20 and rectified on 24<sup>th</sup> February, 2021 be and is hereby recognized and adopted as a judgment of the court and leave is granted to the Applicant to be enforced as such.
  - b. Prayer No. 3 fails and the parties are referred back to the tribunal for determination of costs.
  - c. By consent of the parties, costs of the present application shall be determined by the arbitral tribunal.
  - d. The file is marked as closed.

**DATED AND DELIVERED VIRTUALLY VIA MICROSOFT TEAMS THIS 7<sup>TH</sup> DAY OF MARCH 2024.**

**ALEEM VISRAM, FCIArb**

**JUDGE**

**In the presence of;**

.....For the Applicant

.....For the Respondent

