



Relief and Mission Logistics Limited v Kenya Airports Authority (Commercial Arbitration Cause E006 of 2024) [2024] KEHC 7177 (KLR) (Commercial and Tax) (20 May 2024) (Ruling)

Neutral citation: [2024] KEHC 7177 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
COMMERCIAL ARBITRATION CAUSE E006 OF 2024**

PJO OTIENO, J

MAY 20, 2024

BETWEEN

RELIEF AND MISSION LOGISTICS LIMITED APPLICANT

AND

KENYA AIRPORTS AUTHORITY RESPONDENT

RULING

1. When this matter was called out today for purposes of the parties highlighting the filed Submissions, Counsel for the Applicant, Mr. Marete sought to address the court off record and intimated that his clients have a concern that the Arbitrator whose award is now subjected to the proceeding, once lodge a complaint against the court with the Judicial Service Commission and sought the court's guidance if it is comfortable to deal with the matter. His sentiments were shared by Mr. Chege, Counsel for the Respondent.
2. Even though Counsel intended the address to be off record, I decided to record the Sentiments because the file had been assigned to this Judge and accountability, on the basis that a Judge must deal with the docket assigned, demand that if I am to cease dealing with the matter I assign reasons for such decision.
3. It is true that Mr. Allen Gichui, Advocate, lodge, not one complaint, but two, against me on behalf of his clients Bank of Africa Ltd and I & M Bank Ltd. The complaints were processes and fully heard before the Commission and were dismissed on the merits.
4. Thereafter, I have dealt with disputes by the two Banks and in fact continue to bank with I & M Bank.
5. I may point out that prior to the complaints, Mr. Gichui did an email and circulated same to five Banks and urging all of them to file concerted complaints. Of the five, only the two Banks disclosed above took counsel and lodge the complaints alluded to above.



6. As we speak today, the decision on the complaints is more than three years old and I have fully healed besides feeling fully vindicated by the Commission. Even though I could have pursued a defamation claim, I chose to forgive and forget.
7. As Judge, I strive never to be swayed by factors like prejudice and ill will. As a person, I do not keep grudges and that is why even though I would have pursued the matter by a suit for defamation, I let it pass and I no longer think about it. I doubt if I will have a problem hearing a personal matter for Mr. Allen Gichui. I must remain a Judge looking at every dispute with maximum disinterest.
8. So, while it may be seen to be capable of clouding my mind and judgment, I do assure the parties that I would look at the award as an award by an arbitrator appointed by parties and not as an attribute of the person of the arbitrator.
9. I would also appreciate that the dispute is between the parties who may not share same thoughts and interests with the arbitrator. I would just remain a Judge subject to an oath of office and a duty to Kenyans before it as litigants. I would not be prejudiced.
10. However, I get it from the two Counsel that they would feel like subjecting the court with the burden of having to remember the burdening moments. For that reason and for the comfort of mind of Mr. Marete's clients, I do direct that the file be taken back to Nairobi and placed before the Presiding Judge of the Division for reallocation.
11. Let parties appear before Court on 25.6.2024.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 20TH DAY OF MAY, 2024.

PATRICK J. O. OTIENO

JUDGE

In the presence of:

Mr. Chege for the Applicant (in 324/2021)

Mr. Marete for the Respondent (in 324/2021)

Court Assistant: Polycap

