



REPUBLIC OF KENYA



**Instacon East Africa Limited v Haussmann Group Limited (Arbitration Cause 005 of 2020)
[2023] KEHC 1187 (KLR) (Commercial and Tax) (14 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 1187 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
ARBITRATION CAUSE 005 OF 2020
DO CHEPKWONY, J
FEBRUARY 14, 2023**

BETWEEN

INSTACON EAST AFRICA LIMITED APPLICANT

AND

HAUSSMANN GROUP LIMITED RESPONDENT

RULING

1. The matter came up for mention on February 7, 2023 for parties to confirm compliance with regard to filing of written submissions in respect of the application dated March 14, 2022. The same is Notice of Motion application in which the applicant has sought for several orders as against the respondent.
2. The respondent has not filed a response to the said application and neither has there been attendance on its part, despite service and communication over the same having been effected by the applicant's counsel and the respondent's former counsel as will be deciphered from the proceedings.
3. In view of this, the application is unopposed and as sought by the applicant, the Notice of Motion application dated March 14, 2022 be and is hereby allowed in the following terms:-
 - a. Spent;
 - b. Spent;
 - c. That the respondents Directors/Shareholders and associates web if Companies with common Shareholding/ Directorship vis as follows;

Muteero Property Limited

Haussmann Engineering Services Limited



Afrigroup Kenya Limited

Etc Interiors Limited

Hausmann Group Africa

Are hereby enjoined in the proceedings for purposes of lifting the Corporate Veil of the corporate and the Directors/Shareholders with a view to attaching and selling their movable and immovable properties so as to satisfy the decretal amount due herein.

- d. That Muteero Property Limited be and is hereby stopped from dealing/selling or transferring property L.R. No.7553/189 (ORIG. No.77583/187/2) measuring 0.4233 Hectares in the prime area of Karen-Nairobi worth Kenya Shillings One Hundred Ten Million (Kshs.110,000,000/=).
- e. That a Notice to Show Cause to issue against the Respondent, its Directors/Shareholders and associate web of Companies.
- f. That the Corporate Veil of the Judgment Debtor and/or its Directors/Shareholders and its associated web of Companies listed hereinabove be and is hereby lifted to enable the Applicant Company enforce their Judgments.
- g. Summons to issue upon one Greguire Victor Schenebig, Alisa Roskach Tsymbal and Hausmann Group Africa, Directors/Shareholders of the Judgment Debtor's Company and in common with the associate web of Companies hereinabove for purposes of;
 - i. being orally examined on oath with regard to their means and assets;
 - ii. producing books, papers, documents and or evidence showing the state of affairs of the Companies.

Failure to which;

- i. the said Directors/Shareholders and the foresaid Companies is jointly and or severally held personally liable to satisfy the decree of the court in full.
- ii. the Decree-Holder is granted leave to execute the decree herein as against the said Directors/Shareholders/ and the Companies aforesaid/ of the Judgment-Debtor herein personally, in default of payment of the decretal amount claimed herein.
- iii. The Decree-Holder is granted leave to execute the decree herein against the following associate web of Companies associated with and having common shareholding/ Directorship with the Judgment-Debtor herein personally in default of payment of the decretal amount claimed herein.
- h. Mention on March 20, 2023 for parties to confirm compliance and take further directions.
Notice to issue upon the respondent and or their counsel, if any.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT NAIROBI THIS 14TH DAY OF FEBRUARY, 2023.

D. O. CHEPKWONY

JUDGE



In the presence of:

M/S Dale counsel for Applicant

No appearance for and by Respondent

Court Assistant - Sakina

