



Edge Strategic Consulting Limited v Karuna (Miscellaneous Cause E022 of 2023) [2024] KEHC 15623 (KLR) (6 December 2024) (Judgment)

Neutral citation: [2024] KEHC 15623 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KILGORIS
MISCELLANEOUS CAUSE E022 OF 2023**

F GIKONYO, J

DECEMBER 6, 2024

IN THE MATTER OF THE ARBITRATION ACT (ACT NO. 4 OF 1995) AND THE ARBITRATION RULES, 1997

AND

**IN THE MATTER OF AN APPLICATION FOR
ADOPTION OF A FINAL ARBITRAL AWARD**

AND

IN THE MATTER OF AN ARBITRATION

BETWEEN

EDGE STRATEGIC CONSULTING LIMITED CLAIMANT

AND

OLE METETEK SIMEON KARUNA RESPONDENT

JUDGMENT

Recognition and enforcement of arbitral award

1. The dispute arising from a lease agreement dated 23/12/2020, the parties referred the dispute to arbitration pursuant to arbitration agreement.
2. The Arbitral Tribunal gave an award on 01/12/2022.
3. Following an application for correction of the award by the applicant, the arbitral tribunal corrected its award and delivered it in favour of the applicant herein sometime in July 2023 or thereabout.
4. There is no application under section 35 for the setting aside of the said awards, hence necessitating this application.



The application.

5. By way of a Chamber Summons dated 06/10/2023, the applicant seeks orders that this court adopt the final award issued on 01/12/2022 and a further award issued in July 2023. The applicant also sought the costs of this application.
6. The application is premised on sections 1A, 1B, and 3A of the Civil Procedure Act, and section 36 of the Arbitration Act. No. 4 of 1995, Rule 9 of the Arbitration Rules, 1997.
7. The application is based on the grounds set out in the application and the supporting affidavit of John Kibira Mathenge, a director of the applicant sworn on 06/10/2023.
8. According to the applicant, there is a final award which is binding on the parties, and that there is no appeal on the award.

The response.

9. The respondent urged this court on 22/7/2024 to consider his replies and determine the application. The replies are contained in a letter dated 18th March, 2024 in which he seeks to pay Kshs. 240,000 in instalments of Kshs. 10,000 per month until payment in full.

Analysis and Determination.

10. This court has considered the application dated 06/10/2023, supporting affidavit, and annexures thereto.
11. Parties entered into an agreement on 23/12/2020. Clause 13 of the said agreement provided that any dispute arising thereunder was to be referred to arbitration.
12. The applicant states that a dispute arose between them which dispute was referred to Arbitration under the terms of the contract. Following a hearing the Arbitral Tribunal found in favour of the Claimant and published the Final award dated 01/12/2022. Following an application for correction of the award by the applicant, the arbitral tribunal corrected its award and delivered it in favour of the applicant herein sometime in July 2023 or thereabout.
13. The Final Award provided inter alia as follows: -
 - a. That the claimant is awarded the sum of KES 240,000.00 at an interest rate of 12% per annum from 23/12/2020 until payment in full.
 - b. That the claimant's claim for costs of these proceedings is allowed.
 - c. That the respondent will meet the tribunal's fees and will refund the claimant the portion of fees that has already been paid by the claimant.
14. The Claimants have filed this Summons seeking to have that Final Award recognized and adopted by the Court.
15. 'Except as otherwise agreed by the parties, an arbitral award is final and binding upon the parties to it, and no recourse is available against the award otherwise than in the manner provided by this Act.' S.32A of the Arbitration Act.
16. Section 36(1) of the Arbitration Act provides as follows: -

“ 36.



- (1) A domestic arbitral award, shall be recognised as binding and, upon application in writing to the High Court, shall be enforced subject to this Section and Section 37.
- (2)
- (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)
- (5)

17. The Claimant has annexed to the chamber Summons copy of the Agreement in question (Annexure 'JKM-2') as well as a certified copy of the Final Arbitral Award and as corrected accordingly (Annexures 'PM-3' & JK M-4').
18. There is no application under section 35 of the *Arbitration Act* for setting aside award. There are also no legal or constitutional or policy reasons on which to refuse recognition and enforcement of the award under section 37 of the *Arbitration Act*. The award fully complies with the conditions set out in section 36 of the *Arbitration Act* for the recognition of the Arbitral Award.
19. There being no grounds for refusing recognition or enforcement of the award, the award herein is recognized as binding and, shall be accordingly enforced in accordance with section 36 of the *Arbitration Act*.

Disposition

20. This court finds that the Claimant's application to be merited. Accordingly, this court grants prayer (1) and (2) of the Chamber Summons dated 06/10/2023 and makes the following orders: -
 - a. That the Final Award prepared by Noella C. Lubano dated 01/12/2022 and accordingly rectified be and is hereby recognized as binding upon the parties and is adopted as a Judgement of this Court.
 - b. The award shall be enforced as a judgment of this Court.
 - c. Costs are awarded to the Claimant.
21. Orders accordingly.

DATED, SIGNED, AND DELIVERED AT NAROK THROUGH TEAMS APPLICATION, THIS 6TH DAY OF DECEMBER, 2024.

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F. Gikonyo M

Judge

In the presence of: -



1. Serian for applicant
2. Respondent in person
3. Nyangaresi C/A

