



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL AND TAX DIVISION

MISCELLANEOUS APPLICATION NO. E871 OF 2020

ALPHA GRAIN MILLERS LIMITED.....1ST APPLICANT
CAPWELL INDUSTRIES LIMITED2ND APPLICANT
KABANSORA MILLERS LIMITED3RD APPLICANT
KARIBU FLOUR MILLS LIMITED4TH APPLICANT
KITUI FLOUR MILLS LIMITED5TH APPLICANT
MOMBASA MAIZE MILLERS LIMITED6TH APPLICANT
OSHO GRAIN MILLERS LIMITED.....7TH APPLICANT
PEMBE FLOUR MILLS LIMITED.....8TH APPLICANT

VERSUS

MINISTRY OF AGRICULTURE, LIVESTOCK

AND FISHERIES.....1ST RESPONDENT

ATTORNEY GENERAL.....2ND RESPONDENT

RULING

1. Through the application dated 16th July 2010, the applicants herein sought orders that; -

1. Spent

2. Leave be granted to enforce the following Awards as Preliminary and Final Decrees of the court.

a) Interim Award made and published on 2nd December 2019 and Addendum to the Interim Award made and published on 17th January 2020.

b) Final Arbitral Award made and published on 30th May 2020.

3. The costs of this application awarded to the applicants.

2. The application is supported by the affidavit of the 2nd Applicant's Group head of Business **Mr. Mahesh Chavda** and is premised on the grounds that following the appointment of **Mr. John Ohaga** as the sole Arbitrator and after hearing the respective parties, the Arbitrator published an Interim Award on 2nd December 2019, Addendum to Interim Award on 17th January 2020 and a Final Award on 30th May 2020.

3. The applicants state that the Final Award granted the applicants the sum of Kshs 2,737,714,072.51/= which amount the respondents have not settled despite several demands.

4. It is the applicant's case that no application to set aside or stay of the enforcement of the Arbitral Award has been made by the respondents and that the instant application should be allowed.

5. When the matter came up for directions on 29th July 2020, the court directed the respondents to file a replying affidavit to the application within 14 days. However, as at 7th October 2020 when the matter came up for hearing, the respondents had not filed any response the application whereupon **Mr. Gichuhi**, learned counsel for the applicants moved the court to allow the prayers sought in the application dated 6th July 2020 as the same stood unopposed.

6. I have perused the pleadings and proceedings herein and I note that indeed, respondents have not filed any response to the instant application. I further note **Mr. Odhiambo** appeared for the respondent on 7th October 2020 after the case had been mentioned and confirmed that the respondents had not tendered any response to the application.

7. In the circumstances of this case and after perusing the application, I find that it is not only merited but is also unopposed and I therefore allow it with costs to the applicants.

Dated, signed and delivered via Microsoft Teams at Nairobi this 15th day of October 2020 in view of the declaration of measures restricting court operations due to Covid -19 pandemic and in light of the directions issued by his Lordship, the Chief Justice on the 17th April 2020.

W. A. OKWANY

JUDGE

In the presence of:

Mr. Gichuhi for the 8 applicants

No appearance for the respondents

Court Assistant: Silvia