



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL & TAX DIVISION

CIVIL CASE NO. 53 OF 2016

PETER WANJAMA.....PLAINTIFF

VERSUS

KENYA BREWERIES LTD.....DEFENDANT

RULING

1. Before me is a Chamber Summons dated 6th November 2015 filed by **Peter Wanjama**, the Plaintiff. By that application, the Plaintiff seeks for an Order that the Arbitration Award published on 23rd October 2015 be filed in Court and that leave be granted to enforce the Arbitration Award as a decree against **Kenya Breweries Limited**, the Defendant.

2. This suit was filed before this Court. By consent of the parties of 2nd October 2014, this matter was referred to an Arbitrator for determination of the suit. The Arbitrator as stated before issued the final award dated 23rd October 2015. It is that award that the Plaintiff seeks to be enforce as a judgment of this Court.

3. This Court was moved by the Defendant thorough a Notice of Motion application dated 9th November 2015. This Court by its Ruling, as per Justice Fred A. Ochieng, of 16th February 2017 set aside the award of general damages in the Arbitrator's final award.

4. When the Chamber Summons came before me for hearing 25th October 2018, the Defendants Learned Advocate stated:

“The Defendant does not object to the application subject to the Ruling of Justice Ochieng dated 16th February 2018.”

5. As soon as the said Advocate uttered those words, he requested for time to consult. When the matter again came before me on 19th December 2018 the Learned Advocate for the Defendant requested the Court be guided by Order 46 Rule 16(3) of the Civil Procedure Rules.

6. I have considered the application and the affidavit in support. The rule referred to by the Defendant does affect the part of the award that remained after the general damages award was set aside by the Ruling of 16th February 2017. There is therefore no opposition to the Plaintiff's application. The costs will be awarded to the Plaintiff.

7. In the end, I grant the following Orders:-

a) The award dated 23rd October 2015 of the Arbitrator Kyalo Mbobu, and filed herein, is hereby deemed as though filed by an Order of this Court.

b) Judgment is hereby entered according to that award save for the general damages set aside by the Ruling of this Court on 16th February 2017.

c) The Plaintiff is awarded costs of the Chamber Summons dated 6th November 2015.

DATED, SIGNED and DELIVERED at NAIROBI this 15TH day of MAY, 2019.

MARY KASANGO

JUDGE

Ruling Read and Delivered in Open Court in the presence of:

Sophie..... COURT ASSISTANT

..... FOR THE PLAINTIFF

..... FOR THE DEFENDANT