



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

COMMERCIAL & ADMIRALTY DIVISION

CIVIL SUIT NO. 106 OF 2012

WORLDWIDE CITY VENTURES LTD.....PLAINTIFF

VERSUS

MUIGAI THUMBI.....DEFENDANT

RULING

1. This ruling relates to a Notice of Motion Application dated 20th July 2017, brought under the provisions of Section 36 of the Arbitration Act, 1995, Section 1A, and 3A of the Civil Procedure Rules and Order 51 Rule 1 and all other enabling provisions of the law.

2. The Applicant is seeking for orders;-

(i) That the award dated 6th September 2016 be adopted as the judgment of the Honourable Court;

(ii) That the costs of this application be in cause.

3. The Application is supported by an affidavit dated 20th July 2017 sworn by Muchiri Waithaka, a Director of the Plaintiff's Company. He deposed that on 7th July 2014, the Court referred the matter to Arbitration on the application of the parties and Mr. Calvin Nyachoti FCLarb was appointed as the sole arbitrator. That the arbitral proceedings and a final award were delivered on 6th September 2016, and subsequently the original copy of the final award filed in Court on 21st November 2016. The Amended original final award was filed in Court on 22nd February 2017, pursuant to the Court's order of 14th February 2017.

4. However, the Defendant challenged the award under Section 35 of the Arbitration Act but the application was disallowed, hence the application herein for the award to be adopted as a judgment for purposes of enforcement.

5. The Application was served upon the Respondents, but despite being accorded more than adequate time, they did not oppose the same. I have considered the Application dated 20th July 2017, and the grounds and the affidavit in support thereof too. I have seen a copy of the final award forwarded to the Court on 22nd February 2017 and I am satisfied the Application is merited and allow it in terms of prayers (1) and (2).

6. It is so ordered.

Dated, delivered and signed this 7th day of June 2018.

G.L. NZIOKA

JUDGE

In the presence of:

Mr. Muriuki for the Applicant

No Appearance for the Respondent

FredCourt Assistant