



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MISC. APPLICATION NO. 31 OF 2015**

**ARISING FROM HCCS NO. 287 OF 2007**

**SIMON ANO MUA.....APPLICANT**

**VERSUS**

**1. KIOGA MUKWANO t/a KIOGA MUKWANO TRANSPORTERS**

**2. ABUBAKAR ISLAM**

**3. KYOGA HAULIERS (U) LIMITED.....RESPONDENTS**

**RULING**

1. The subject matter of this ruling is the motion dated 19<sup>th</sup> January, 2015, taken out by Simon Ano Mua, hereinafter referred to as the Applicant. In this motion, the Applicant sought for the following orders:-
  - a. That this court be pleased to grant orders for transfer of the decree issued by this court on 11<sup>th</sup> December, 2013 in favour of the Applicant for execution by the High Court of Uganda at Kampala.
2. The Applicant sued the Respondents in Nairobi HCCC No. 287 of 2007. On 30<sup>th</sup> August, 2013, this court Justice H.P.G. Waweru entered judgment in favour of the Applicant against the Respondents. A decree dated 11<sup>th</sup> December, 2013 and a certificate of costs dated 13<sup>th</sup> November, 2014 were thereafter extracted. It is the Applicant's contention in his supporting affidavit sworn on 19<sup>th</sup> January, 2015 that since the extraction of the decree and certificate of costs, the Respondent's have not satisfied the judgment. He averred that he has however established that the Respondents are residents of Uganda where all their properties are and where they carry their business. It was particularly indicated that the 3<sup>rd</sup> Respondent is an incorporated company with properties in Uganda which property can be attached in execution of the decree herein.
3. Evidence has been availed to prove that the Respondents are domiciled and have property in Uganda.
4. A decree passed by the High Court in Uganda could be registered in Kenya under Section 2 (1)(a) of the Foreign Judgments (Reciprocal Enforcement) Act Chapter 43, Laws of Kenya (*the Act*). Section 5 of the Reciprocal Enforcement of Judgments Act, Cap 47 Laws of Uganda on power to apply their Act to commonwealth countries outside the United Kingdom provides that where a minister is satisfied that reciprocal provisions have been made by the legislature of any commonwealth country outside the United Kingdom for enforcement within that country of judgment obtained in the High Court, the minister may by statutory order declare that this that Act

extend to judgment obtained in a superior court in that country. Our courts have over the years enforced judgments from common wealth countries in line with Section 2 (1)(a) and Section 18 of the Act including judgments for Uganda. The Republic of Uganda is thereby expected to reciprocate such enforcement to Kenyan judgments. The Applicant having established that the Respondents are domiciled in Uganda, I find that it is just that the decree be registered and executed in Uganda. After considering all the circumstances of this case, I find that the Applicant's application is merited and I make orders as follows:-

- a. That the decree issued by this court on 11<sup>th</sup> December, 2013 in favour of the Applicant be transferred to the High Court of Uganda at Kampala for execution.

Costs shall be in the cause. Orders accordingly

**Dated, Signed and Delivered in open court this 8<sup>th</sup> day of May, 2015.**

**J. K. SERGON**

**JUDGE**

**In the presence of:**

..... **for the Appellant**

..... **for the Respondents**