

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**COMMERCIAL AND TAX DIVISION**  
**ARB NO. E058 OF 2025**

**YUSUF MUCHELULE.....**  
**APPLICANT**

**VERSUS**

**VAAD .....RESPONDENT** **LIMITED**

**RULING**

1. This is a Ruling arising out of an application for enforcement of an Arbitral Award. The Applicant filed the Chamber Summons dated 1<sup>st</sup> July 2025 seeking the following orders;

*a) The Court be pleased to Order that the Arbitrator’s Final Award dated 24<sup>th</sup> March 2025 be recognized and enforced in accordance with the provisions of Section 36(1) of the Arbitration Act, 1995.*

*b) A Decree be issued accordingly.*

*c) The costs of this application be provided for.*

**Background Facts**

2. The Application was supported by the Affidavit of **Yusuf Muchelule** . He stated that the parties, by virtue of the Sale

Agreement entered into on 23<sup>rd</sup> August 2021 had agreed that in the event of a dispute between the parties the matter be resolved through arbitration. That such a dispute be resolved by a sole arbitrator mutually agreed to by both parties and on failure to reach such an agreement, by the Chairperson of the Law Society of Kenya (LSK).

3. A dispute did indeed arise between the parties and as agreed in the said Sale Agreement, the matter was referred for Arbitration. That the Learned Arbitrator, MR. GEORGE ESHUCHI was duly appointed by the Chairperson of the Law Society of Kenya (LSK) vide a letter dated 5<sup>th</sup> November 2024. The matter was determined before the Arbitrator who made a Final Award dated 24<sup>th</sup> March 2025
4. The Respondent did not file any response to the Application.

### **Issues for determination**

5. The Court has considered the Applicant's submissions alongside the Application and the attachments therein and frames only one issue for determination;

a) *Whether the final award should be enforced as a decree of the Court.*

### **Analysis**

6. A dispute arose between the Applicant and the Respondent and in accordance with the terms of their agreement dated 23<sup>rd</sup> August 2021 the dispute was referred to arbitration. Mr. George Eshuchi was appointed to hear and determine the dispute which led to the Final Award being issued in favour of the Applicant.

a) **Whether the final award should be enforced as a decree of the Court.**

7. Section 32(A) of the Arbitration Act provides that an arbitral award is final and binding upon the parties, and no recourse is available against the award otherwise than in the manner provided by the Arbitration Act. The Court, under Section 36

of the Arbitration Act, has the power to recognize and enforce domestic arbitral awards in the following terms:

**(1) A domestic arbitral award, shall be recognized as binding and, upon application in writing to the High Court, shall be enforced subject to this section and section 37.**

**(2) An international arbitration award shall be recognised as binding and enforced in accordance to the provisions of the New York Convention or any other convention to which Kenya is signatory and relating to arbitral awards.**

**(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.**

8. The recognition and enforcement of arbitral awards is governed by Sections 36 and 37 of the Act. Section 36, as stated above, confirms the binding nature of domestic arbitral awards. It requires a party seeking enforcement of such awards to avail to the Court either the original arbitral

award and the original arbitration agreement or their certified copies.

9. The Applicant has already availed to this Court certified copies of the arbitral award and the arbitration agreement.

10. It follows that the application for recognition of the award has no impediment. The Applicant's Application is hereby allowed.

11. As to costs, the same are awarded to the Applicant.

### **Determination**

12. The Applicant's Chamber Summons dated 1<sup>st</sup> July, 2025 is allowed in the following terms;

- a) *The Arbitrator's Final Award dated 24th March 2025 be and is HEREBY recognized and enforced in accordance with the provisions of Section 36(1) of the Arbitration Act, 1995.*
- b) *A Decree be and is HEREBY issued accordingly.*

*c) The costs of this application be borne by the Respondent.*

13. It is so ordered.

**DATED, SIGNED AND DELIVERED AT MILIMANI THIS  
04<sup>TH</sup> DAY OF DECEMBER, 2025.**

**NJOROGE BENJAMIN K.**

**JUDGE.**

In the presence of;

Mr. Omulo for the Applicant.

N/A for the Respondent.

Mr. Peter Wabwire - Court Assistant.