

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**COMMERCIAL AND TAX DIVISION**  
**MISCELLANEOUS NO. E040 OF 2025**

**MOBILE ALERT TOILETS LIMITED.....APPLICANT**  
**VERSUS**  
**TIMAO                    GROUP                    LIMITED.....**  
**.....RESPONDENT**

**RULING**

1. This Ruling relates to a Chamber Summons application dated 20th May 2025 brought under the Provisions of Sections 2 and 36 of the Arbitration Act 1995 and Rule 9 of the Arbitration Rules 1997 and all other enabling provisions of law.

2. The Applicant is seeking for orders:

- i. That this Honourable Court do recognize and adopt the final award published on 27th January 2025 by Rina Chatrath (FCI Arb), being the sole arbitrator in the arbitration between the parties herein as a judgment of this court.*
- ii. That the Applicant be granted leave to enforce as a decree of this Honourable Court the final award published on 27th January 2025 by Rina Chatrath (FCI Arb), the arbitrator.*

*iii. That the Respondent do pay the costs of this application.*

3. The Application is premised on the grounds on the face of it and the supporting Affidavit dated 8th May 2025 sworn by Emmanuel Klu, a manager of the Applicant Company.
4. He avers that by an agreement dated 1st November 2023, the parties herein entered into and executed an agreement and that it was further agreed that any dispute arising from the aforesaid contract would be referred to Arbitration.
5. Thereafter, a dispute arose between the parties and was referred to Arbitration before Ms. Rina Chatrath (FCI Arb) appointed by the Chartered Institute of Arbitrators on 2nd July 2024.
6. The dispute was duly heard and determined and an Award rendered on the 27th January 2025 and has been filed in this cause. That the Respondent has not satisfied the award or applied to set it aside, hence this application that the Award be adopted by the Honourable Court before any execution can issue.
7. The Respondent, through Jean Tina James, filed some sort of response dated 3rd December 2025 wherein she generally admits indebtedness and contends that non-satisfaction thereof has been occasioned by obtaining financial strain.
8. The statutory provisions that govern enforcement of Awards are found under **Section 36** of the **Arbitration Act** which provides that:

- 1) 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 recognized 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.**
- 4) If the arbitral award or arbitration agreement is not made in the English language, the party shall furnish a duly certified translation of it into the English language.**
- 5) In this section. the expression “New York Convention” means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted by the United Nations General Assembly in New York on the 10th June, 1958,**

***and acceded to by Kenya on the 10th February, 1989, with a reciprocity reservation.***

9. I have considered the application and the statement of response. I note that the Applicant has availed duly certified copies of the Contract (EK1) and Arbitral Award (EK3) - See **Structural Construction Co. Ltd v International Islamic Relief Organization Nbi HC Misc. Case No. 596 of 2005.**
10. The Court will ordinarily recognize and enforce an arbitral award unless a party demonstrates that the award is affected by one or more of the prescribed grounds for refusal set out in the Arbitration Act, under Section 37(1) of the Arbitration Act.
11. In the instant case, I am satisfied that the Applicant has made out a case for the orders sought and I hereby allow the Chamber Summons application 20th May 2025 with costs to the Applicant.

It is so ordered.

**RULING** delivered virtually, dated and signed at **NAIROBI**

This **29<sup>th</sup>** day of **January** 2026.

**P.M. MULWA**

**JUDGE**

**In the presence of:**

*Mr. Mutunga* for Applicant

Respondent – present thro’ its representative – *Ms. Jean James*  
Court Assistant: *Carlos*