

REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT AT NAIROBI
CAUSE NUMBER 537 OF 2011

BETWEEN

FANUEL OKUMU ITARE.....
CLAIMANT

VERSUS

TALANI MANUFACTURING LIMITED.....
RESPONDENT

TIMBER CORNER
LTD.....OBJECTOR

RULING

The Court delivered the Award in favour of the Claimant way back on 2nd August 2012.

The Respondent did not comply with the Award. The Claimant sought to execute, and instructed Muhata Pala Auctioneers to proclaim the movable property of the Respondent.

On 26th June 2013, an entity known as Timber Corner Limited filed an Objection, claiming the proclaimed items belong to Timber Corner Limited, not Talani Manufacturers Limited.

The two companies have a common Director in Mr. C.H. Shah. Mr. C. H. Shah accepted the summons initiating the proceedings herein, which according to the affidavit sworn by his Advocates, were forwarded by Mr. C. H. Shah to their insurance company to meet the Claim.

The Advocates agreed to have the objection disposed of by way of written submissions.

The Court is satisfied that the objection has been made merely to frustrate an Employee, in recovering the full benefit of the Award.

Mr. C. H. Shah is a common Director of his companies, and the attached goods have not been shown to belong to the Objector to the exclusion of its sister companies. It is not acceptable to the fair administration of industrial justice that Employers are allowed to escape liability for employment wrongs, by use of a multiplicity of legal facades.

IT IS ORDERED:-

- (a) The Applications dated 25th June 2013 objecting to execution is rejected.*
- (b) The Claimant is at liberty to proceed with execution.*
- (c) No order on the costs.*

Dated and delivered at Nairobi this 25th day of March 2014

James Rika

Judge