

**IN THE HIGH COURT OF TANZANIA
(COMMERCIAL DIVISION)
AT DAR ES SALAAM**

**MISC. COMMERCIAL CAUSE NO. 73 OF 2021
IN THE MATTER OF THE ARBITRATION ACT, CAP. 15 R.E. 2020**

AND

**IN THE MATTER OF AN ARBITRATION UNDER THE INTERNATIONAL
COURT OF ARBITRATION OF THE INTERNATIONAL CHAMBER OF
COMMERCE ARBITRATION RULES 2017 (ICC Rules)**

AND

**IN THE MATTER OF APPLICATION FOR RECOGNITION AND ENFORCEMENT
OF FOREIGN ARBITRATION AWARD**

BETWEEN

FLEET MONITORING SYSTEMS LIMITED (UGANDA).....PETITIONER

VERSUS

TANZANIA REVENUE AUTHORITY..... RESPONDENT

THE ATTORNEY GENERAL..... NECESSARY PARTY

Date of last order; 3/2/2022

Date of judgement 14/2/2022

CONSENT JUDGEMENT

MAGOIGA, J.

The petitioner, **FLEET MONITORING SYSTEMS LIMITED (UGANDA)** by way of petition, instituted the instant petition against the above-named respondents, praying for confirming award against the respondent and enter consent judgement in favour of the applicant in the following order:-

1. That the Tanzania Revenue Authority to pay Fleet Monitoring Systems Limited the cumulative sum of USD.230,526.21 being final and conclusive settlement of the award as granted by Arbitral Tribunal.



When this case called for mention for orders on 3rd February, 2022, Ms. Violate Mipawa Learned Advocate for the Petitioner and Mr. David Kakwaya, Principal State Attorney for the respondents, informed the court on the intention of the parties, to settle the matter out of court. On 14th February they managed to settle the matter and deed of settlement has already been filed in this court.

I have gone through the deed of settlement filed in this court by the parties and indeed filed under order XXIII Rule 3 of the Civil Procedure Code [Cap 33 R. E 2019]. The said Rule 3 provides that:

"Where it proved to the satisfaction of the court that a suit has been adjusted wholly or in part by a lawful agreement or compromise, or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject matter of the suit, the court shall order such agreement, compromise or satisfaction to be recorded and shall pass decree in accordance therewith so far it relates to the suit."

This provision was defined by Mulla, the code of civil procedure Act of 1908 (14th ed) on page 1828, who stated that.

The rule gives a mandate to the court to record a lawful adjustment or compromise and pass a decree on in terms of such compromise or adjust such consent decree is not

appealable when the agreement relates to whole suit ,the court on being invited by the parties record the agreement and pass a decree in in accordance with the agreement and the suits ends there. This position was acknowledged by the Court of Appeal in the case of **Motor Vessel Speideh and Another v. Yusuph Mohamed Yusuph and two others, Civil application No 237 of 2013 (unreported)** the Court of observed that:-

“Where there is lawful agreement or compromise the court is bound to record a settlement once it is arrived at by the parties”

I have examined the deed of settlement which seeks to settle the whole suit once and for all. Therefore, by a deed of settlement dully executed by the parties in this case and filed in this court, this court hereby record this suit to be settled out of court in the terms and conditions as agreed in the deed of settlement under Order XX11 Rule 3 of the Civil procedure.

It's so ordered.

Dated at Dar es salaam on this 14th February, 2022



A handwritten signature in blue ink, consisting of a series of vertical strokes followed by a horizontal line and a small flourish.

S.M. MAGOIGA

JUDGE

14/2/2022