**Re Ghelani Impex Ltd**

**Division:** High Court of Kenya at Nairobi

**Date of judgment:** 29 November 1974

**Case Number:** 3/1974 (17/75)

**Before:** Madan J

**Sourced by:** LawAfrica

*[1] Company – Winding-up – Debt – No debt due on a foreign arbitration award until sued on or leave*

*given for enforcement – Arbitration Act* (*Cap.* 49), *s.* 27 (*K*.).

**Editor’s Summary**

The petitioner obtained arbitration awards against the company in England and applied for leave to enforce the awards as judgments.

In the meantime the petitioner applied for the winding-up of the company and argued that there was a common law right to claim the debt due on which a petition could be based.

**Held –** no remedy is available in Kenya on a foreign arbitration award until an action has been brought

on it or until leave of the court for its enforcement has been obtained.

**Cases referred to Judgment:**

(1) *Kassamali Gulamhusein & Co. v. Kyrtatas Bros*., [1968] E.A. 542.

(2) *Dalmia Cement Ltd. v. National Bank of Pakistan*, [1974] 3 W.L.R. 138; [1974] 3 All E.R. 189.