



New Italcors Limited v Kenya Bureau of Standards (Tribunal Appeal 1 of 2019) [2022] KEST 1087 (KLR) (28 October 2022) (Ruling)

Neutral citation: [2022] KEST 1087 (KLR)

**REPUBLIC OF KENYA
IN THE STANDARDS TRIBUNAL
TRIBUNAL APPEAL 1 OF 2019
GM MBURU, MS MAKHANDIA & P MUNGAI, MEMBERS
OCTOBER 28, 2022**

BETWEEN

NEW ITALYCOR LIMITED APPELLANT

AND

KENYA BUREAU OF STANDARDS RESPONDENT

RULING

1. The Application that this Tribunal is being called upon to adjudicate was filed on 23rd September, 2020 seeking the stay of execution of the order extracted from the ruling of this Tribunal dated 13th December, 2019: See the Tribunal ruling dated 13th December, 2019 for the background of this application.

The orders sought by the Applicant are as follows:

- a. This Application be certified as urgent and be heard at the earliest opportunity.
- b. This Honorable Tribunal be pleased to stay the execution of the Consent dated 8th April, 2019, the consent order made on 15th April, 2019 and all consequential orders pending the hearing and determination of this Application.
- c. This Honorable Tribunal be pleased to review the orders made on 15th April, 2019 and all consequential orders.
- d. This Honorable Tribunal be pleased to set aside the consent dated 8th April, 2019, the consent Order made on 15th April, 2019 and all consequential orders.
- e. This Honorable Tribunal be pleased to make such other orders as the interest of justice may demand in the circumstances.
- f. Costs be in the cause.



2. In order to address the prayers sought in this Application, one has to revisit the ruling of 13th December, 2019. The Tribunal found that the consent dated 8th April, 2019 was valid as no adequate reasons were given to vacate or review it.
3. The Applicant proceeded to the High Court and filed Appeal Number HCCA NO. EOO1 OF 2020 which Appeal was dismissed. The High Court held that the consent was enforceable and valid.
4. That conclusively deals with prayer (b), (c) and (d) which are at the core of this Application. Prayer (a) has been overtaken by events.
5. It's notable that the goods are still in the custody of the Applicant in total defiance of this Tribunal orders. We condemn the Applicant's action of holding onto the goods yet there was no Application or order for stay of execution.
5. This Tribunal is in agreement with the Respondent that, this Application raises no new issues only those that have been conversed by this Tribunal and the High Court and competently disposed off.
6. In view of the above, the Applicant cannot be entertained any longer by the Tribunal as there is an obvious intention to drag this matter unnecessarily, thereby denying the Respondent justice.
7. This Tribunal is left with no alternative but to dismiss this Application with no orders as to costs.

DATED IN NAIROBI THIS 28TH DAY OF OCTOBER, 2022.

GLADYS MUTHONI MBURU - (CHAIRPERSON)

MOSES SANDE MAKHANDIA - (MEMBER)

PETER MUNGAI - (MEMBER)

