

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA COURT 4, FCT., ABUJA
BEFORE HIS LORDSHIP: HON. JUSTICE O. O. GOODLUCK**

SUIT NO. FHC/HC/CV/2088/2016

B E T W E E N:

SINOSTAR INTERNATIONAL NIG. LTD. } PLAINTIFF

AND

SAMMYA NIGERIA LIMITED } DEFENDANT

J U D G M E N T

The Judgment Creditor/Applicant is by a Motion on Notice under reference No. M/569/2017 praying this Court for an order to recognize the final award published by Hon. Eleojo Eneche on the 30th October, 2017 between the parties in this suit.

In support of the application, one Sunday Joseph, deposed to a 5 paragraph affidavit dated 15th November, 2015. The facts disclosed in the affidavit are that the parties in this suit submitted to Arbitration before Hon. Eneche in further of an Arbitration Clause. On the 30th October, 2017, the award was published in favour of the Judgment Creditor, consequently, the Judgment Creditor is by this application praying this Court to recognize the award.

In reaction, the Judgment Debtor filed a 16 paragraph affidavit deposed to by Babafemi Adeogun, Respondent's Company Secretary. The facts disclosed in the affidavit are that the Judgment Creditor unilaterally appointed and paid the Arbitrator his fees.

It is the contention of the deponent in the counter affidavit that the Judgment Debtor filed a Reply on point of Law to the Judgment Creditor/Applicant's Statement of Issues and Statement of Defence, Exhibit B1 – B2 attached to the counter affidavit. According to the Judgment Debtor he only got wind of the award through an attachment of a copy of it as an Exhibit to Applicant's Motion on Notice. He contends that the Arbitrator made no reference to his Statement of Defence in the award. Judgment Debtor further disclosed that he has since written the Arbitrator to correct the manifest error in the award without any response to date.

In a further affidavit of 3 paragraph dated 1st February, 2018, Sunday Joseph Litigation Secretary in the Firm of Messrs Sunday eke & Co vehemently disputed the facts disclosed in the counter affidavit. He maintained that the sole Arbitrator openly and diligently captured and reviewed all the process filed by parties to the Arbitration. He contended that parties had, prior to the Arbitration process agreed that the Arbitration will be based on documents only.

He maintains that the only process filed by the Judgment Debtor/Respondent is the Respondent's reply on point of law to the Claimant's Statement of Issues. The Judgment Creditor recounts that it was only the reply on points of law that was in the file at the Abuja Multi Door Court House at the time they conducted a search of the Arbitration file.

In sum, the Judgment Creditor/Applicant maintains that no defence was filed. Both parties filed and exchanged final written address.

S.O. Ake, Esq., Counsel for the Judgment Creditor/Applicant in his written address attached to the application dated 15th November, 2017 canvassed a lone issue for determination, that is, whether this Honourable Court has power to grant the Judgment Creditor/Applicant's application. Counsel for the Judgment Debtor/Respondent in his written address formulated two issues for determination, they are;

1. Whether the Respondent is entitled to apply to the sole Arbitrator for correction of the award?
2. Whether the Respondent has any responsibility after filing its reply on Points of Law and Statement of Defence at the Secretariat of the Abuja Multi Door Court House.

Learned Counsel for the Judgment Creditor/Applicant has submitted that this Court is eminently clothed with the powers and

jurisdiction to grant the Judgment Creditor's prayer for the recognition of the award.

I have considered deeply the issues formulated by both Counsel and I am of the view that both issues canvassed by the Judgment Debtor's Counsel are not useful for the determination of the real issue in controversy in this matter.

Regarding the first issue, that is, whether the respondent is entitled to apply to the sole Arbitrator for correction of award, I am unable to find any nexus or relevance of this poser to the issue before this Court. The prayer before this Court is for an order to recognize the final award rendered by the sole Arbitrator on the 30th October, 2017. It is thus wondered why the respondent's Counsel has invited this Court to determine whether the Respondent is entitled to apply to the sole Arbitrator for the correction of the award. There is no application for setting aside the award by the Judgment Debtor/Respondent hence this issue as this Court sees it is extraneous to the only prayer before this Court which is for the recognition of the award.

Should the Respondent wish to apply to correct the award, he should go ahead and do so if such a right exists. Similarly, the Respondent's Judgment Debtor has raised the issue of whether the Respondent has any responsibility after filing his reply on

points of law and Statement of Defence on the Abuja Multi Door Court House. As hitherto noted in this Ruling the only application before the Court is on the recognition of the award, again if the Respondent is aggrieved by the conduct of the Arbitrator or the Arbitral proceedings such grievance cannot be heard in this Motion filed by the Judgment Creditor for the recognition of its award.

The issues canvassed in my view and I will so hold appears like a counter claim which can only be initiated vide a separate Motion on Notice for setting aside the final award.

Both issues formulated by the Judgment Debtor/Respondent are therefore academic and of no use to the present application filed by the Judgment Creditor/Applicant.

Turning to the lone issue for determination raised by the Judgment Creditor/Applicant that is, whether this Court has the power to grant the Judgment Creditor/Applicant's application having regard to Sections 32 and 51 of the Arbitration and Conciliation Act. Section 32 of the Act provides thus:

"Any of the parties to an Arbitration agreement may request the Court to refuse recognition or enforcement of the award"

Sections 51(1) of the Arbitration and Conciliation Act provides thus:

51(1) An Arbitral Award shall irrespective of the country in which it is made be recognize as binding and subject to this Section and Section 32 of this Act, shall upon application in writing to the Court be enforced.

Applying the foregoing provisions to the application before this Court, I am of the view and will so hold that this Court will be acting within the powers conferred on it by the Arbitration and Conciliation Act in allowing this application.

Though the Respondent/Judgment Debtor contends that the Arbitrator ignored its points of defence in rendering the award being sought to be recognized by this Court, the Judgment Debtor/Respondent has not countered this application by filing an application to set aside the award neither is such prayer before this Court.

There is nothing inhibiting this Court from allowing the Judgment Creditor/Applicant's prayer for recognition of the award.

Accordingly, this application succeeds.

The final award published by *Hon. Elejo Eneche* on the 30th day of October, 2017 between **SINOSTAR INTERNATIONAL NIGERIA LIMITED v. SAMMYA NIGERIA LIMITED** is hereby accorded recognition by this Court. It therefore has all the force of a Judgment delivered by this Court.

The Judgment Creditor/Applicant is at liberty to apply for the issuance of a Writ of Attachment for the Execution of the Award.

**O.O. Goodluck,
Hon. Judge.
14th November, 2019.**

APPEARANCE

Parties absent

O. A. Olawuyi Esq.: For the Defendant

Judgment Creditor is unrepresented.