THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

MISCELLANEOUS APPLICATION No. 330 OF 2016

[Arising out of Misc. cause No. 4 of 2016]

[ARISING OUT OF CADER/ARBITRATION No. 16 OF 2016]

[ARISING OUT OF H.C.C.C No. 172 OF 2013]

VERSUS

BEFORE: HON. MR. JUSTICE B. KAINAMURA

RULING

This is an application by Ms. Kabibu Engineering Co. Ltd under S. 34 (5) of the Arbitration and Conciliation Act for the applicant. In Misc Cause No. 4 of 2016 M/s Kolen Insaat Turizm Sanayi ve Ticaret to provide security for the payment of the decree in CADER/Arbitration No. 16 of 2016 and costs likely in opposing Misc Cause No. 4 of 2016.

It is contended by the applicant in this application that the respondent is a foreign company with no known assets is Uganda to which the applicant can have resort to, to recover the decretal award and costs.

In reply the respondent maintains it has capacity to satisfy the decree that has been issued against it as it owns sufficient assets in Uganda in form of debt, movable assets like vehicles and construction equipment.

S. 34(5) of the Arbitration and Conciliation Act provides that if the court considers it proper then it can require a party to provide appropriate security.

In practice courts have exercised the above discretion where the party against whom the application is made ordinary resides outside the jurisdiction and has no substantial property within the jurisdiction. In the instant case Counsel for the respondent supplied to court certified copies of a sizeable number of vehicles and plant registered in the names of the respondent.

In the premis I am persuaded that the respondent has no intention of leaving jurisdiction and has sufficient capacity to meet the obligations that may arise if the application to set aside the award was to fail.

Accordingly this application does not succeed and is dismissed with no order as to costs.

B. Kainamura Judge

20.05.2016