



**CHARTERED INSTITUTE OF ARBITRATORS KENYA BRANCH LIMITED
SUMMARY CASE LAW**

**MISC APPLICATION E515 OF 2019
HONDA MOTORCYCLE LIMITED VS GERICK KENYA LIMITED**

FACTS

The Bill of Costs dated 28th October, 2019 for costs from an arbitration between the parties was filed after the Respondent objected to taxation before the Arbitrator. The Respondent filed a Preliminary Objection dated 10th January, 2020 premised under Section 32B of the Arbitration Act (costs and expenses) and submissions dated 2nd March, 2020. The Applicant thereafter filed a Replying Affidavit sworn on 3rd March, 2020 and submissions dated the same day.

ISSUES FOR DETERMINATION

1. Whether the Preliminary Objection raised by the Respondent is sustainable?
2. Whether the said Preliminary Objection has merit and should be upheld?

RULE OF LAW

Section 32 of the Arbitration Act

HOLDING

The Deputy Registrar held that he lacks jurisdiction and stated that he has to down his tools for this reason.

RATIONALE

In determination of this matter, the Deputy Registrar was informed by the case of *Transworld Safaris Limited vs Eagle Aviation Limited and 3 Others* [2012] where the Court held that from the reading of Section 32B of the Arbitration Act, it is clear that the Section has vested the Arbitral Tribunal with the exclusive jurisdiction to determine its costs and expenses and no other body is to make such a determination as this would be acting beyond jurisdiction.