



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

**MISCELLANEOUS CIVIL CASE NO. 455 OF 2019  
RUGSAN LAND DEVELOPMENT LTD -VS- FAITH AGNES MAUMOH**

- Applicant – Rugsan Land Development Ltd.
- Respondent – Faith Agnes Maumoh
- Judge(s) – Hon. S.A. Opande (Deputy Registrar)
- Date of delivery of the Ruling: 21st August 2020
- Court: High Court at Nairobi (Milimani Law Courts); Commercial, Tax & Admiralty Division

**SUMMARY OF FACTS**

The Applicant filed a party and party bill of costs application that remained unopposed by the Respondent. The Kshs. 2,098,254/= costs being sought by the Applicant were in respect to the arbitration proceedings.

**ISSUE**

The following issue arose for determination by the Deputy Registrar:

***“What determines/governs/regulates the cost and any expense ancillary to the arbitration process?”***

**HOLDING**

The Judge held that Section 32B of the Arbitration Act is the governing law in respect of costs apportioned to arbitral proceedings. According to the Section, such costs and expenses are to be determined and apportioned by the Arbitral Tribunal or the Arbitrator. The Judge went on to tax the costs as per the recommendations of the Arbitral Tribunal.

**RATIONALE**

According to the Judge, abiding to Section 32B of the Arbitration Act as regards to costs of the arbitral proceedings reserves the integrity of arbitration.

**CASE RELEVANCE**

Section 32B of the Arbitration Act determines costs in relation to arbitral proceedings, and not the Advocates’ Remuneration Order. This means that costs and expenses apportioned ought to be determined by the Arbitral Tribunal pursuant to the discretionary power granted to them by the said Section.