



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

**MISC. CIVIL APPLICATION NO. E 287 OF 2019
SIMON SAILI MALONZA V GASPRA INTERNATIONAL LIMITED**

FACTS

The claim in the application filed was for orders; That the Claimant/Respondent pays the Arbitrator, Hon. Simon Saili Malonza his fees and expenses amounting to Kshs.190,820/= in respect of services rendered under the Arbitrator's Terms of Engagement executed between the Claimant and the Arbitrator; In the alternative, the Court to determine the Arbitrator's fees/expenses for services rendered under the terms of engagement; The Claimant/Respondent bear costs of the summons and; The Court make further orders as it may deem fair and just. The suit came up for hearing on 10th March, 2020 and for ruling on 11th June, 2020 before Hon. Lady Justice Wilifrida A. Okwany.

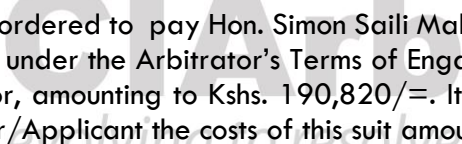
ISSUE FOR DETERMINATION

Whether the orders prayed for in the application should be granted?


RULE OF LAW

The Arbitration Act 1995, Section 16A (1)B

ORDER

The Claimant/Respondent was ordered to pay Hon. Simon Saili Malonza his fees and expenses in respect of services rendered under the Arbitrator's Terms of Engagement executed between the Claimant and the Arbitrator, amounting to Kshs. 190,820/=. It was also ordered that the Respondent pays the Arbitrator/Applicant the costs of this suit amounting to Kshs.54,655/=. 

RATIONALE

In ascertaining the costs payable pursuant to the decree of the Court dated 11th June, 2020, the same was ascertained and certified to the extent of the total amount specified in Schedule VI of the Remuneration of Advocates Order 2014. 

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MISC. CIVIL APPLICATION NO. E 287 OF 2019 (O.S.)

IN THE MATTER OF THE ARBITRATION ACT, 1995 LAWS OF KENYA
AND
IN THE MATTER OF AN APPLICATION UNDER SECTION 16A (1) (b) OF THE
ARBITRATION ACT
AND
IN THE MATTER OF AN ARBITRATION UNDER THE ARBITRATION RULES, 2012 OF
THE CHARTERED INSTITUTE OF ARBITRATORS (KENYA BRANCH)

SIMON SAILI MALONZA ARBITRATOR/APPLICANT

-VERSUS-

GASPRA INTERNATIONAL LIMITED CLAIMANT/RESPONDENT

DECREE

CLAIM FOR:

1. **THAT** the Honourable Court be pleased to order the Claimant/Respondent to pay Hon. Simon Saili Malonza, FCIArb (Sole Arbitrator) his fees and expenses in respect of services duly rendered under the Arbitrator's Terms of Engagement dated 3rd October, 2018, executed between the Claimant and the Arbitrator, amounting to **KES 190, 820.00;**
2. **THAT** in the alternative to prayer one above, the Honourable Court be pleased to determine the quantum of the arbitrator's fees/ expenses for services duly rendered under the Arbitrator's Terms of Engagement dated 3rd October, 2018;
3. **THAT** the Claimant/Respondent does bear the costs of this summons.
4. **THAT** the Honourable Court do make such further orders as it may deem fair and just.

THIS SUIT coming up for hearing on the 10th day of March, 2020 and for Ruling on the 11th day of June, 2020 before Honourable Lady Justice Wilfrida A. Okwany, and **UPON HEARING** the counsel for the Applicant in the absence of the counsel for the Respondent.

IT IS HEREBY ORDERED:

1. **THAT** the Claimant/Respondent to pay Hon. Simon Sali Malonza, FCI Arb (Sole Arbitrator) his fees and expenses in respect of services duly rendered under the Arbitrator’s Terms of Engagement dated 3rd October, 2018, executed between the Claimant and the Arbitrator, amounting to KES 190, 820.00;

2. **THAT** the Respondent do pay the Arbitrator/Applicant the costs of this suit.

DEPUTY REGISTRAR
HIGH COURT OF KENYA, NAIROBI
COMMERCIAL & TAX DIVISION

CERTIFICATE OF COSTS
Certificate of Costs under Order 21 Rule 9

IT IS HEREBY STATED that the cost payable pursuant of the decree of this Court dated 11th June, 2020 has been ascertained and certified to the extent of the total amount specified in the schedule hereto:

1) Under Schedule VI of the remuneration of Advocates Order 2014	
a) Party and Party Costs.....	Kshs. 45, 000.00
b) Attendances 2*3,000.....	Kshs. 6, 000.00
2) Court fees on suit.....	Kshs. 2, 005.00
3) Service of summons application.....	Kshs.1, 400.00
4) Court fees on issuing	
a) Decree.....	Kshs. 150.00
b) Certificate of costs.....	Kshs. 100.00
TOTAL	<u>Kshs. 54, 655.00</u>

GIVEN UNDER my hand and the seal of this Court at Nairobi this 11th day of June, 2020.

ISSUED at Nairobi this _____ day of _____ 2020.

DEPUTY REGISTRAR
HIGH COURT OF KENYA, NAIROBI
COMMERCIAL & TAX DIVISION