

**IN THE HIGH COURT OF TAZANIA  
DAR ES SALAAM DISTRICT REGISTRY  
AT DAR ES SALAAM  
MISC. CIVIL APPLICATION NO. 805 OF 2018  
IN THE MATTER OF ARBITRATION ACT [CAP 15 R.E.2002]**

**KUNTI YUSUPH MAJALA.....PETITIONER**

**AND**

**AVIC COAST LAND DEVELOPMENT**

**(T) LTD.....RESPONDENT**

**RULING**

*Date of last order: 30/03/2020*

*Date of Ruling: 30/07/2020*

**S.M. KULITA J;**

This is a ruling in respect of the arbitration between the parties herein in respect of breach of the Pre-Sale Agreement which is a subject under Clause 17 of the Agreement. Before dwelling into the substance of the matter at hand I wish to quote Clause 18 of the Agreement as hereunder;

*"18 DISPUTE RESOLUTION:*

*18.1 In the event of any dispute or difference arising between the parties in relation to or arising out of this agreement, the parties shall forthwith, upon receipt of a notice in writing from the party claiming such dispute or difference, attempt to resolve the dispute or difference through good faith negotiation. In the event the Parties fail to reach a settlement within a period of fourteen business days either party may refer the dispute or difference to **Arbitration** under the provisions of the Arbitration Act, Cap 15.*

*18.2 Unless there is any subject matter of impartiality and /or conflict of interest to the Arbitrator, **the appointment of the Arbitrators shall be final and binding on the parties.***

*18.3 the Arbitration shall take place in Dar es Salaam, Tanzania or any other place as may be determined by the parties.*

*18.4 the decision of the Arbitrator shall be final and binding between the parties and*

***18.5 for execution purposes, the decision of the Arbitrator may be made an Order of a court of competent jurisdiction and enforceable under the laws."***

Basically the appointment of the arbitrator/umpire is used to be done by the parties themselves, unless it has been so agreed otherwise or in the circumstances fall under Section 8 of the Arbitration Act where the court may appoint the Arbitrator/Umpire. In the matter at hand the parties had agreed that they are going to settle the disputes arising from the Agreement in the manners stated at clause 18, that is through Arbitrator.

I have carefully given a perusal of the records and noticed that the parties have not submitted themselves before the Arbitrator for the settlement of their dispute as per the dispute settlement mode they have opted in the agreement. In that sense there is no decision which requires the execution order by this court.

From the above findings I am of the view that this court lacks jurisdiction to entertain the matter at hand. I therefore dismiss the application. Each party to bear its own costs.



**S.M. KULITA**

**JUDGE**

**30/07/2020**

