IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(DAR ES SALAAM SUB-REGISTRY)

AT DAR ES SALAAM

MISCELLANEOUS CIVIL CAUSE NO. 27821 OF 2023

OILCOM TANZANIA LIMITED ..... APPLICANT

VERSUS

ORYX ENERGIES TANZANIA LIMITED

(Formerly known as ***ORYX OIL COMPANY LIMITED****)* **..... 1ST RESPONDENT**

ORYX ENERGIES SA ..... 2ND RESPONDENT

RULING.

S.M. MAGHIMBI, J:

Before me is a petition to show cause filed in this court under the provisions of Regulation 51(4) of the Arbitration (Rules of Procedure) Regulations 2021, G.N. No.149 of 2021 ("the Regulations") by the Administrative Secretary of the Arbitral Tribunal in the matter between OilCom Tanzania Limited the Claimant, and Oryx Energy Tanzania Limited (Formerly known as Oryx Oil Company Limited) the first respondent and Oryx Energies SA the second respondent. In the application, the Secretary of the Arbitral Tribunal is requesting the Court to receive and register the Final Award of the Arbitral Tribunal dated 30th day of November, 2023 ("the

Award"). On the 28th day of February 2024, the two respondents herein filed a preliminary objection on the point of law in that the recognition and enforcement proceedings are incurably defective in as much as the award sought to be recognized and enforced has not been properly filed in this court in accordance with the law.

Hearing of the objection was by way of written submissions. Before this court, the claimant was represented by Mr. Thobias Laizer, learned advocate while on their part, the first respondents were represented by Dr. Ringo Tenga, learned Senior Counsel. Having considered the point of objection raised and the submissions of the parties in their totality, four issues are for my determination in this ruling:

1. Whether the preliminary objection under scrutiny has been filed in violation of Regulation 63(1) of the Arbitration (Rules of Procedures) Regulations, 2021;
2. Whether the preliminary objection raised is not a pure point of law to qualify to be determined as a preliminary objection;
3. Whether in terms of Regulation 51(4) of the Regulations, an award can be filed without the accompanying arbitral proceedings?

4. Should the court determine the substance of the objection in the affirmative, whether the Court can invoke oxygen principle to cure the irregularity.

The first two issues are raised by the claimant which attacks the competence of the objection raised by the respondents in substance and in law. In matter of law, the respondent is questioning whether the preliminary objection has been filed in violation of Regulation 63(1) of the Arbitration (Rules of Procedures) Regulations, 2021. In substance, the respondent is questioning whether the preliminary objection raised is a pure point of law to qualify to be disposed as a preliminary objection.

The remaining two points are raised by the respondents. While in the third issue, it addresses the substantive PO raised which questions the propriety of the award filed in terms of completeness of the records therein. The fourth issue is that should the court determine the substance of the objection in the affirmative, whether the Court can invoke oxygen principle to cure the irregularity. This issue was raised by the respondents following a plea by the claimant that if the court finds the objections to be meritious, then Oxygen Principle should be invoked to cure the irregularities.

Since I cannot go into determining the PO raised by the respondents on the competence of the application until I am satisfied that the objection qualifies as the point of objection and whether the objection itself is properly filed in this court; my determination of the issues will therefore start with the first two issues which question the competence of the objection raised in terms of both substance and law. Should the objection be found to be properly before me, then the third issue which is the substance of the objection shall be determined, followed by the last issue which is the petitioner's alternative resort in case where the court finds the objection to be meritious, application of the Oxygen Principle.

The first issue questions the competence of the current objection on ground that it was filed in violation of Regulation 63(1) of the Arbitration (Rules of Procedures) Regulations, 2021. The issue was raised by Mr. Laizer in his reply submissions. He elaborated that the secretary to the Arbitral Tribunal duly communicated the notice of such filing via his e-mail to the parties dated 19th December 2023. Subsequent to the notification from the Arbitral Tribunal, the Court issued Summons on 17th January 2024, inviting the Respondents to enter an appearance and show cause why the reliefs sought in the Application should not be granted. That the notice to show

cause was issued pursuant to the provisions of Regulation 51(6). His argument was that sequel to the issuance of the Notice to Show Cause, the Respondents are entitled, under Regulation 63(1) (a) of the Arbitration (Rules of Procedures) Regulations, 2021, read together with the provisions of Sections 74 and 75 of the Arbitration Act [Cap 15, R.E.2020], to apply to the Court to object to the registration and enforcement of the award. That the Regulations specify how such a challenge may be made. He then cited the provisions of Regulations 63 which provides as follows:

> *"63. (1) Save as is otherwise provided, all applications made under the provisions of the Act or these Regulation shall:*
>
> *(a) be made by way of petition and be titled "In the matter of the arbitration and in the matter of the Act"*

He then submitted that the provision is clear that all applications made under the provisions of the Act or the Regulations, such as the application to object to the registration of the award, shall be made by way of Petition and be titled, *'in the matter of Arbitration and in the matter of the Act.'* He then pointed out that after receiving the Court's summonses, the Respondents promptly filed a Petition, to wit, Miscellaneous Civil Cause No. 1017 of 2024 [Arising from Misc. Civil Cause No. 27821 of 2023] between

Oryx Energies Tanzania Limited (Formerly known as Oryx Oil Company Limited) & Oryx Energies SA Versus OILCOM Tanzania Limited, questioning the validity of the objection in consideration.

Addressing on the substance of the objection, Mr. Laizer pointed out that the Respondents' Written Submissions in support of the preliminary objection are predicated on the absence of pleadings, interim orders, witness statements, list of documents relied upon by the parties, exhibits and final submissions. The objection is predicated on the Respondents allegation that upon perusal of the records filed in Court, they are missing and that only the Final Award and part of the proceedings have been filed. His submission was that it is evident from the sequence and timing of the filings by the Respondents that the Notice of Preliminary Objection is a calculated afterthought. He contended that the Respondents' initial and prompt compliance with the procedural requirement was by filing a Petition in response to the notice to show cause.

Further that the Notice of Preliminary Objection has been filed in forgetfulness or ignorance of the law. His line of argument was that if the Respondent intended to object to the propriety of the Arbitral Panel application, they ought to have raised the same within their Petition to wit,

Miscellaneous Civil Cause No. 1017 of 2024 [Arising from Misc. Civil Cause No. 27821 of 2023] rather than filing a separate Notice. He concluded that the Respondents' Notice of Preliminary Objection was filed in violation of Regulation 63(1) (a) of the Arbitration (Rules of Procedures) Regulations, 2021, which requires a party to file a Petition. In that regard, he prayed for this Court to be pleased to ignore and dismiss the Notice of Preliminary Objection for reasons articulated herein above.

In rejoinder, which is when the respondents had an opportunity to reply on the issues raised, Dr. Tenga submitted that the assertion is a pure misconception of applicability of Regulation 63(1) on the ground that the Regulation is silent on the said requirement. That the Regulation is clear as snow that all applications under the Act have to be made by way of a petition. His argument was that in this case, the petitioners filed a preliminary objection and a preliminary objection is not an application under the said regulation 63(1) of the Regulations. It does not fall under the categories of the application to be brought by way of petition as envisaged under the cited Regulation.

Citing the cases of **Higher Education Students' Loans Board Vs. Tanzania Building Works Limited, Misc. Commercial Cause No. 39**

of 2022 and the case of **Attorney General of the United Republic of Tanzania Vs. Ayoub Farid Michael Saab, Misc. Commercial Cause No. 6 of 2023**, he argued that the point of incompetent filing of the award was successfully raised by way of a notice of preliminary objection. He concluded that the petitioner's complaint lacks legal basis.

Dr. Tenga also brought to the attention of this court the fact that the petitioner has lodged a preliminary objection in disguise, arguing that the law prohibits a person to raise a preliminary objection on top of a preliminary objection. He supported his submissions by citing the case of **Attorney General & Another Vs. Mahedi Mohamed Gulamali Kanji, Application No. 42 of 1999** (unreported) where the Court held that a preliminary objection cannot be answered by another preliminary objection.

The second issue is whether the preliminary objection raised is not a pure point of law to qualify to be determined as a preliminary objection. It was Mr. Laizer's submission that this objection does not fit the threshold of what the law considers as a preliminary objection. It was his contention that our courts have, time and again, defined what constitutes a preliminary objection. His premised his line of argument in line with the celebrated case of **Mukisa Biscuit Manufacturing Company Vs. West End**

Distributors Limited [1969] E.A 696 where on page 701, the East Africa Court of Justice, through its learned President Sir Charles Newbold, put it clearly as follows;

> *"A preliminary objection is in the nature of what used to be a demurrer. It raises a pure point of law, which is argued on the assumption that all facts pleaded by the other side are correct. It cannot be raised if any fact has to be ascertained or what is sought is the exercise of judicial discretion."*

He went on submitting the same position was also echoed by this Court in **Civil Case No.27 of 2019, Sykes Travel Agent Ltd Versus The National Identification Authority (NIDA) and The Attorney General** (unreported) where on page 4 of its judgment, it held as follows that:

> *"It is a settled principle of law that objections must be of pure points of law without requiring another facts/evidence to prove its existence…"*

And a further decision of the Court of Appeal of Tanzania (Ndika, J.A., Mwandambo, J.A., Kente, J.A) was cited, the decision reaffirmed the said position in the case of **Jackline Hamson Ghikas vs Mlatie Richie Assey (Civil Application 656 of 2021) [2022] TZCA 438 (18 July 2022)**

Expounding on what constitutes a Preliminary Objection, he submitted that the East Africa Court of Appeal, in Mukisa Biscuit Manufacturing Company case (supra), held on page 700, as follows;

> *"A preliminary objection consists of a point of law, which has been pleaded or which arises by clear implication out of the pleadings, and which, if argued as a preliminary objection, may dispose of the suit. Examples are an objection to the jurisdiction of the Court, a plea of (time) limitation, or a submission that the parties are bound by the contract given to the suit to refer the dispute to arbitration."*

He went on submitting that in the decision of the Court of Appeal in the case of **Jackline Hamson Ghikas vs Mlatie Richie Assey** (Supra) the Court of Appeal of Tanzania, while referred to another decision in Tanzania **Telecommunications Company Limited Vs. Vedasto Ngashwa & 4 Others, Civil Application No. 67 of 2009** (unreported), where it reaffirmed, with greater emphasis, the position taken by the Court of Appeal for East Africa in **Mukisa Biscuits** (supra) that, a preliminary objection must satisfy three conditions. That one, the point of law raised must either be pleaded or must arise as a clear implication from the pleadings; two, that it

must be a pure point of law which does not require close examination or scrutiny of the affidavit and counter affidavits and three, the determination of such a point of law in issue must not depend on the court's discretion. He then argued that the above-quoted principles of law are still regarded with much respect and are widely quoted by Courts in our jurisdiction to provide the test of what constitutes a preliminary objection in law. These principles as elucidated earlier, he argued, are not just validated by their frequent citation by our Courts but also have set a paramount benchmark and standard for determining what is a preliminary objection.

Applying the above tests to our current case, Mr. Laizer submitted that the Respondents' submission are from the bar in contending that their perusal of the records/documents filed in Court indicates there are only copies of the final Award and part of the proceedings and that there are no notices, correspondences, pleadings, interim orders, witness statements, list of documents to be relied upon by the parties, exhibits and final submissions etc. His reply submission was that the Respondents raised the Objection based on the contents of the letter from the Arbitral Tribunal, which was copied to all the parties and which lists the Documents submitted to the

Court being the Final Award, Proceedings, Interim orders, Procedural orders, pleadings, Witness statements and Closing submissions.

Applying the first test, his submission was that the Preliminary Objection, which was not pleaded and didn't arise by clear implication from the pleadings, namely, the Petition fails the first test. Further that the objection also fails the second test since it is logical that verification of the Respondent's allegations will require close examination and scrutiny of the documents filed in Court.

Mr. Laizer went on submitting that the Court must entertain evidence from the Advocate who perused the Court's record and evidence from the relevant Court's Registrar/Officer who supervised the said perusal to prove that, indeed, the said documents are missing. He pointed out that to his understanding, no one has access to peruse the Court's e-filing system unless he/she gets access from the Court itself, and any such access must be under the supervision of the Court's Registrar or any approved Court's Officer. Similarly, he submitted, the question of whether the proceedings have missing pages will also require the parties to lead evidence and the Court to go through and evaluate the said evidence before concluding

whether or not the Secretary to the Arbitral Tribunal filed the said documents and whether the said documents are missing or not.

It was his submission that there is no gainsaying, therefore, that the determination of the question as to whether the Award was filed with only part of the Proceedings and other documents listed in the letter by the Arbitral Tribunal will require evidence. He emphasized that the present Preliminary Objection is not a point of law since it will involve a dispute of facts, as evidence will be required to ascertain the allegations raised by the Respondents' Counsels. The argument advanced was that in the absence of credible evidence from the Registrar or the Court's Registry Officer, the allegations on the said documents are speculative and mere statements from the bar and must be disregarded by the Court.

In conclusion, he submitted that guided by the above principles of law from the celebrated decision in the famous case of Mukisa Biscuit Manufacturing Company (supra), the preliminary objection raised by the Respondents does not meet the threshold of what in law constitutes a preliminary objection because it is not self-proof, necessitating further verification and evaluation of evidence. In the upshot, he prayed that the objection is dismissed with costs.

In rejoinder, Dr. Tenga replied that not all preliminary objections need to be pure point of law without involving facts in it. He supported his argument by citing the decision of the Court of Appeal in the case of **Ali Shaban & 48 others v. Tanzania Road Agency and Another, Civil Appeal No. 261 of 2020** (unreported) where it was categorically stated that a preliminary objection can be found on facts or rather it can be looked at the record of appeal itself where the court held follows: -

> *"It is clear that an objection as it were on account of time bar is one of the preliminary objections which courts have held to be based on pure points of law whose determine does not require an ascertainment of facts of Evidence Act any rate, we hold the views that no objection will be from abstract without reference to some facts plain on the pleadings which must be looked at without reference examination of any other evidence"*

He further cited the case of **Gideon Wasonga & 3 others Vs.The Attorney General & 2 others, Civil Appeal No. 37 of 2018** (unreported) whereby a similar position was also echoed. On the account of the above decided cases, the respondents submitted that they still contend that failure to include proceedings and other documents in the award filed in Court

qualifies to be challenged by way of a preliminary objection. He further cited the cases of the **Higher Education Students' Loans Board Vs. Tanzania Building Works Limited;** and the **Attorney General of the United Republic of Tanzania Vs. Ayoub Farid Michael Saab**, whereby an incompetent filed award was successfully objected to by way of a notice of preliminary objection.

He further brought to the notice of the court what he termed as interesting addition that these proceedings are filed without a Petition filed in court under Regulation 63(1) of the Regulations. He concluded that the Petitioner's proposition is no longer a valid argument based on the recent development of the law as set out in the cases cited above. That the Petitioner's referred cases are based on a rather outdated position in view of the recent development of the law and are therefore, distinguishable.

Having considered the parties' submissions, I will start determination of whether the raised PO qualifies to be termed as an objection in line with the principle set in the cited case of **Mukisa Biscuits** (Supra). As clearly pointed out therein, a point of objection must be raised on clear assumptions that the pleadings as they stand are satisfactory to determine the PO and what is pleaded by one party is not necessarily objected by the other party. The

substance of this objection is on the completeness of the records filed by the Arbitral Tribunal for recognition and enforcement. Dr. Tenga's argument is that the said records are incomplete. That upon their perusal of the records/documents filed in Court, they found that there are only copies of the final Award and part of the proceedings and that there are no notices, correspondences, pleadings, interim orders, witness statements, list of documents to be relied upon by the parties, exhibits and final submissions etc.

On his part, Mr. Laizer raised a concern on the objection raised on the ground that the same does not qualify to be argued as a point of objection as principled in the cited celebrated case of Mukisa Biscuits (Supra). On his part Dr. Tenga argued that the point raised amounts to raising a point of objection on top of an objection already raised hence called for the court to dismiss the point raised.

I will start with the noted respondent's argument that by raising the two points of concern on the competence of objection, the claimant has raised an objection on top of an objection. With respect, this is not the case. The law is clear by precedent that before determining a matter as a preliminary point of objection on point of law, the court must satisfy itself that what is

before it is actually a point of law which can be ascertained on an assumption that the pleadings are undisputed without requiring evidence or ascertainment of facts which are at issue. A point of objection cannot be determined on any matter that requires evidence, and this, with respect is what I am seeing is the point raised by the claimant/petitioner. The concern will therefore be determined.

On the substance of the two issues raised by the respondent on the propriety of this objection, I find the argument raised by the respondent to be off the hook. The objection tabled before me is on the propriety of how the award was tabled in this court and not on the substance of the award for the purpose of registration. While the latter falls under the cited Section 63(1) of the Regulations, the former is on the entry point of the award and how it is presented. Following the precedented practice in the cite case of **Higher Education Students' Loans Board Vs. Tanzania Building Works Limited,** I will proceed to determine the objection as raised.

Coming to the third issue which is the subject of the objection beforehand, the objection is to the effect that the proceedings are not properly filed in court in terms of Regulation 49 and 51 of the Regulations. It was Dr. Tenga's submission that in line with the cited case of **Higher Education Loan's**

Board, the award, if filed for the purpose of either recognition and enforcement or for challenging it like the instant case or for both recognition and challenge it has to be accompanied by a copy of proceedings. He also made it known to the court that the respondent has filed a petition under Section 83 of the Act to ask this court to refuse the request by the petitioner for enforcement of the final award and another petition under Section 75 of the Act.

His argument was that in the two petitions filed, the nature of challenges requires this court to look into all the arbitral proceedings including but not limited to notices of arbitration, appointment of arbitrators and their respective acceptance letters, pleadings documents relied upon by parties, procedural orders, rulings etc. He hence questioned as to how the court can determine the recognition and enforcement or the challenge thereto without being seized with all the proceedings that were before the tribunal. His conclusion was that there is non-compliance with the law in the matter before this court.

On their part the claimant/petitioner submitted the drafters of the law did not intend to make it mandatory that an intended Award to be filed in court for registration and recognition has to be accompanied by the proceedings

thereof. Their argument was that had it been intended so then they would have stated so in clear and unequivocal terms. In any event, in the present case, they argued, even under the hypothetical assumption that such inclusion was mandatory, the proceedings were indeed submitted alongside the Award, as evidenced by the Respondents' submission. If anything is missing, that is likely not the Arbitral Panel's mistake nor the Petitioner's mistake.

Their conclusion was that the presentation of the final Award to this Court by the arbitral Tribunal for registration and recognition under Regulation 51(4) of the Arbitration (Rules of Procedure) Regulations, 2021, did not violate the law. The inclusion of the proceedings in the filing by the Arbitral Tribunal, which the Respondents claim to be incomplete, was not mandatory and as such, the documents alleged missing from the proceedings are inconsequential.

In determining this issue, I had to revisit the relevant provisions therein and satisfy myself of the requirements of the law to see whether they have indeed been violated. I will start with Regulation 49 which provides as follows:

"49. The award that has been signed by the arbitrators shall, within a period of fourteen days from the date of signing, be given to each party, together with two copies to the Centre, and one of the copies shall be registered by Centre with the Court concerned."

The provisions of Regulations 51(4)&(5) were also the basis of the objection raised by the respondents. The marginal notes in the cited regulation is on notification and registration of award. The Regulation provides:

"51(4) ***The arbitral tribunal shall****, within time limit provided for under the Law of Limitation Act, at the request of any party to the award or any person claiming under him and upon payment of the fees and charges due in respect of the arbitration and award and of the costs and charges of filing the award,* ***cause the award or a signed copy of it, to be filed in the court;*** *and* ***notice of the filing shall be given to the parties*** *by the arbitrators.*

(5) Notwithstanding the provisions of sub regulation (4), the arbitral tribunal may in the letter transmitting the award to the

parties, ***allow any party to the proceeding to file a certified copy of the award together with the proceedings thereof*** *with the court for the purposes of registration of the same."*

At the onset, my reading of the provisions cited does not show anywhere that the filing of an award by the Arbitral Tribunal to the court would require them to file the award along with the proceedings therein. The requirement to file the award along with the proceedings is under the provisions of Regulation 51(5) in which it is not the case when it is the arbitral tribunal that files the proceedings, they are required to cause the award or a signed copy of it, to be filed in court. The requirement is rather when the Tribunal allow parties in which it allows any party to the proceeding to file a certified copy of the award together with the proceedings thereof with the court for the purposes of registration of the same.

From the cited provisions of Regulation 51(5), literal interpretation of the provision is to the effect that when a party is the one filing a certified copy of the award to the court for registration, then the requirements thereof are that the award should be accompanied by a copy of the proceedings. Filing of an award by the Arbitral Tribunal is covered under the provisions of

Regulation 51(4) of the Regulations which imposes a duty on the Arbitral Tribunal, at the request of any party to the award or any person claiming under him and payment of the fees and charges, to cause the award or a signed copy of it, to be filed in the court; and notice of the filing shall be given to the parties by the arbitrators. The provision is silent on whether or not the proceedings should be accompanying the award to be filed.

On the above note however, I find it prudent that I determine the meaning of "proceedings" as stipulated under the provisions of the cited Regulation 51(5) if the Regulations. The respondents' argument is that proceedings for the purpose of the regulations should include what is to be accompanied by an arbitral award. The respondents supported their objection by citing the case of Higher Education Loans Board. In a nutshell, what is to be determined in this case is what constitutes the "proceedings" which are to be accompanied by an arbitral award as per the requirements of Regulation 51(4)&(5). Since that requirement is not so expressed in the law, then the petitioner cannot be punished by non-compliance of something which is not mandatorily provided for under the law. After all, there are proceedings which have been filed by the Arbitral Tribunal and the subsequent two petitions filed by the respondents herein, therefore the court

shall be acquainted by the proceedings including those filed by the Arbitral Tribunal.

The argument would have been different if there was no records at all filed to accompany the petition or if the application was lodged under the provisions of Regulation 51(5) of the Regulations. The fact that there are a missing portion of the record is not a fatal irregularity to render the proceedings before me so incompetent to subject the same to being struck out.

The above notwithstanding, I would say in passing, and not by setting precedent, wisdom would call that the proceedings thereof should also accompany the award so as to put the court into a better position to determine any objection or petition opposing the award under the provisions of Section 74 and 75 of the Act, hence the last sentence on Regulation 51(5) "for the purpose of registration of the award" as pointed out by the respondent. In the cited case of **Higher Education Loans Board** (Supra) the Court held at page 35-36:

> *"Although Regulations 49 and 51 (4) of the Arbitration (Rules of Procedure) Regulations, 2021 (GN.No,146 of 2021) does not state that when causing the award to be filed in court*

what needs to accompany it, when filed under Regulation 51 (5) the law is clear that, the party so filing it will also attach to the transmittal letter, not only a certified copy of the award but also the proceedings thereof.

It follows, therefore, that, even if an award was to be transmitted to the court under Regulation 49 or 51 (4), still, prudence would call for it to be filed together with the proceedings from which the award got derived. This is because, proceedings entail the process which the tribunal went through in arriving at the award and for a court required to recognise an award as binding and enforceable it must be satisfied that there was indeed a hearing which ended up with a decision lest it be taken for a ride."

I submit to the reasoning that is advanced by my brother Judge Dr. Nangela in this case and as I have pointed out earlier, the filing of proceedings under Regulation 51(4) should be more of a matter of prudence than that of law. I must however make it clear that the situation in the cited case of Higher Education Loans Board and that in current case are different. While in the cited case the Registration was initiated under the provisions of

Regulation 51(5) of the Regulations by a party to the proceedings, in our current case, the Award was transmitted by the Arbitral Tribunal under the provisions of Regulation 51(4) of the Regulations. The Regulation under scrutiny does not make it mandatory for the proceedings to accompany the award.

From the above therefore, the extent of my submission to the holding of my brother Judge is to the importance of proceedings for the assistance of the court to make determination of the issues before it in registration and enforcement of an award and the objection thereto, proceedings are of a help in understanding as to what actually transpired where the court did not seat. However, as correctly so argued by Mr. Laizer, had the intention of the law been that the accompanying documents are mandatory, the law would have expressly provided for. It is obvious that the Regulations did not undermine the power of the court to call for those records from the Arbitral Tribunal should there be any need to so do.

In my determination, I should also not overlook the fact that under the Arbitration Act and Regulations, objection are to be made by way of application in form of petitions and that is why in his submissions, Dr. Tenga has informed the court that two petitions are already filed challenging the

award. Pursuant to the provisions of Regulation 65 (c) and (d) the petitioner is required to annex to the petition the submission, the minutes or proceedings of the arbitral tribunal award or the ruling to which the petition relates, or a copy of it certified by the petitioner or his advocate to be a true copy and that is why Section 51(4) only requires the Arbitral Tribunal to file in court an award or a certified copy of it as opposed to the provisions of Section 51(5) when a party is the one filing for recognition and enforcement of the award. Therefore in so far as the provisions of Section 51(4) of the Act are concerned, there is no violation of the law to be termed as a fatal irregularity to render the proceedings before me so incompetent to subject the same to being struck out.

Having so made the above finding, I need not dwell on the fourth issue of resorting to the overriding objective. In conclusion therefore, I find the objection to be lacking in merits and it is hereby overruled with costs awarded to the claimant/petitioner.

Dated at Dar-es-salaam this 12th April, 2024.

S.M. MAGHIMBI

JUDGE