



Makhecha & Gitonga Advocates v Standard Group Limited (Civil Miscellaneous Application E534 of 2021) [2023] KEHC 21887 (KLR) (Civ) (14 August 2023) (Ruling)

Neutral citation: [2023] KEHC 21887 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CIVIL
CIVIL MISCELLANEOUS APPLICATION E534 OF 2021
AN ONGERI, J
AUGUST 14, 2023

BETWEEN

MAKHECHA & GITONGA ADVOCATES APPLICANT

AND

THE STANDARD GROUP LIMITED RESPONDENT

RULING

1. The advocate filed a reference dated May 9, 2022 in the bill of costs taxed on April 28, 2022 contesting on the instruction fee on the grounds that the taxing master failed to apply the correct principles and awarded costs that were manifestly low as to cause the injustice to the applicant.
2. The reference is supported by the applicants supporting affidavit sworn on May 9, 2022.
3. The applicant filed written submissions which I have duly considered.
4. The sole issue for determination is whether the instructions fees was inordinately low.
5. The taxing master stated that the value of the subject matter was not ascertainable from the pleadings and she considered the following factors
 - a. The nature and importance of the cause or matter.
 - b. The amount or value of the subject matter.
 - c. The interest of the parties.
 - d. The general conduct of the parties.
 - e. The complexity of the issues raised and novel points of law.



- f. The time, research and skill expended in the brief.
- g. The brief of documents involved.
6. The taxing officer also relied on the cases of *Premchan Raichand Ltd & Another vs Quarry Services Of Ea Ltd & Others* (1972) EA & *R vs Minster Of Agriculture & 2 Others Exparte Samuel Muchiri Njuguna & 6 Others* (2006) e KLR.
7. The taxing officer award ksh 150,000 in respect of instruction fees and taxed off ksh 550,000.
8. I find ksh 150,000 on the lower side. I award ksh 300,000 as instruction fees.
9. The total award is 393,375 plus $\frac{1}{2}$ (196,687) = 590,062.50
Add 16% VAT (94,409.92)
Total 684,471
Add disbursement (3,715)
Total 688,186
Less paid (45,000)
Total payable 643,186
10. Judgment be and is hereby entered in favour of the advocate against the clients in e sum of ksh 643,186 plus interest at 14% from the date of taxation until payment in full.

**DATED, SIGNED AND DELIVERED ONLINE VIA MICROSOFT TEAMS AT NAIROBI THIS
14TH DAY OF AUGUST, 2023.**

.....
A. N. ONGERI
JUDGE

