



REPUBLIC OF KENYA



**Kaur v Advocates (Miscellaneous Civil Application E1267 of 2020)
[2022] KEHC 118 (KLR) (Commercial and Tax) (18 February 2022) (Ruling)**

Neutral citation: [2022] KEHC 118 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS CIVIL APPLICATION E1267 OF 2020
DAS MAJANJA, J
FEBRUARY 18, 2022**

BETWEEN

MOHINDER KAUR PLAINTIFF

AND

RABALA & COMPANY ADVOCATES DEFENDANT

RULING

1. It is not in dispute that the Defendant (“the Advocate”) acted for the Plaintiff in the sale of a property LR No. 209/3754. In the Originating Summons dated 2nd December 2020, the Plaintiff seeks inter alia prayers for an account and consequential orders. In due course, I directed the Advocate to show cause why the amount claimed by the Plaintiff should not be deposited in court.
2. The Advocate filed an affidavit sworn on 31st January 2022 in which he detailed various proceedings including a pending Bill of Costs filed in HCOMM Misc. E190 of 2021. In view of those proceedings, I am satisfied that cause has been shown hence the order nisi is discharged.
3. On the other hand, the Advocate depones at paragraph 12 that, “I am ready to give a detailed account of the entire money that was received in the sale of LR No. 209/3754 as the said money was strictly utilized pursuant to the Client’s instructions.” This is consistent with Prayer 2 of the Originating Summons which prays, “That the Defendant do deliver a cash account in respect of all monies received by him in relation to the sale of LR No. 209/3754.” The Plaintiff also seeks a determination, “whether the Defendant should file a Bill of Costs in respect of the conveyance on sale of LR No. 209/3754”. The Bill of costs has now been filed in line with the Plaintiff’s plea and he has to await its determination.



4. It is clear from the grounds I have set out that a full hearing of the Originating Summons may not be necessary. In the circumstances and in order to save the parties and court time, I order as follows:
 1. The order nisi issued against the Advocate on 11th February 2022 be and is hereby discharged.
 2. The Advocate is directed to give a detailed account of the entire money received in the sale of LR No. 209/3754 within thirty (30) days.
 3. The any further proceedings shall be taken after taxation of the Advocates Bill of Costs in HCOMM Misc. E190 of 2021.
 4. Costs in the cause.

DATED AND DELIVERED AT NAIROBI THIS 18TH DAY OF FEBRUARY 2022.

D.S. MAJANJA

JUDGE

Court Assistant: Mr M. Onyango

Mr Mutua instructed by E. K. Mutua and Company Advocates for the Plaintiff

Mr Odera instructed by Bansbury Associates Advocates for the Defendant

