



Kihang'a & Company Advocates v Xplico Insurance Ltd (Miscellaneous Application 211 of 2017) [2022] KEHC 11177 (KLR) (27 July 2022) (Ruling)

Neutral citation: [2022] KEHC 11177 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
MISCELLANEOUS APPLICATION 211 OF 2017
MM KASANGO, J
JULY 27, 2022**

BETWEEN

KIHANG'A & COMPANY ADVOCATES APPLICANT

AND

XPLICO INSURANCE LTD RESPONDENT

RULING

1. Kihang'a And Company Advocates (hereinafter The Advocate) filed an advocate/client bill of costs, in this matter seeking to tax the bill against its erstwhile client, namely Xplico Insurance Company Ltd (hereinafter The Client). On 22nd February, 2018 the Taxing Master of this Court taxed that bill of costs as drawn. The same was not opposed by the client. On 17th July, 2018 this Court entered judgment for the amount taxed that is Kshs.46,140/= . A decree was drawn by the Deputy Registrar of this Court for total of Kshs.85,279.80. Although that decree on the face of it was not in conformity with the judgment entered by this Court on 17th July, 2018, the same has not todate been set aside.
2. The advocate has moved this Court by notice of motion application dated 22nd July 2021. The advocate by that application seeks for orders of inhibition and for sale by public auction of properties, plot No. 7024/111/MN Title No. CR53851 and plot NO. 7025/111/MN Title No. CR.53849. The official searches of those subject properties indeed reveal that they are registered in the name of the client.
3. The application though served on the client was not opposed by the client.

Analysis

4. I have considered the affidavit of the advocate in support of the application.
5. The application cannot be granted as sought by the advocate because the advocate seeks orders to sell the subject properties in satisfaction of various decrees against the client in several other matters of taxation. Those other matters of taxation are not consolidated to this matter. Those other matters are



distinct to this particular matter. It follows that the order that the subject properties be sold by auction in satisfaction of the various distinct decrees is not tenable.

6. The only order that commends itself to me is that prohibition be issued and it be only in respect to one property of the client. The decree in this matter is for an amount of Ksh.85,279.80 only.

Disposition

7. For the reasons set out above, this Court by this Ruling orders:-
 - (a) An order of inhibition is hereby issued as against the property Plot No. 7024/111/MN Title No. CR.53851.
 - (b) The said property Plot No. 7024/111/MN Title No. CR.53851 shall be sold by public auction to recover Kshs.85,279.80 only after the Deputy Registrar of this Court does settle the terms and conditions of sale by public auction. A date to be fixed at the registry for the settlement of those terms of sale by Deputy Registrar.
 - (c) There shall be no order as to costs to the notice of motion dated 27th July, 2021.

RULING DATED AND DELIVERED AT KIAMBU THIS 27TH JULY, 2022.

MARY KASANGO

JUDGE

In the presence of:-

Coram:

Court Assistant:- Mourice

For advocate (Applicant):- N/A

For client (Respondent):- N/A

Court

Ruling delivered virtually,

MARY KASANGO

JUDGE

