

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KITUI

CRIMINAL MISC. APPLICATION CAUSE NO. 129 OF 2018

IN THE MATTER OF THE ADVOCATES ACT CAP 16 LAWS OF KENYA ADVOCATES REMUNERATION ORDER

AND

IN THE MATTER OF TAXATION OF ADVOCATES – CLIENT BILL OF COSTS

WAWERU KIHARA AND COMPANY ADVOCATES LLP – APPLICANT

VERSUS

FREDRICK MARTIN MULL.....RESPONDENT

R U L I N G

1. Before me is a preliminary objection raised by the **Respondent** on account of Miscellaneous Cause relating to taxation of advocate client bill of costs.

2. It is evidence that the **Applicant** wrongly filed the miscellaneous cause as a Criminal Cause rather than a Civil Cause. This court has noted the parties in this cause have engaged in linguistic contestation over a trivial matter and they have really excelled because they have punctuated the contest with high sounding phrases, idioms and vocabulary which in common street parlance is “*Kingeresa mingi*” with no solution in sight. In my considered view the same was quite unnecessary. All that was required was simply for the Applicant to simply concede that he made an error by presenting his advocate client bill of costs through a Miscellaneous Criminal Cause instead of a Civil Cause because he is pursuing his legal fees which is a civil debt.

3. To save on Judicial time and avoid unnecessary costs this court hereby gives the following direction.

i. This matter is improperly before this court because the Applicant is pursuing a Civil Cause. This cause is therefore struck out with costs.

ii. The Applicant is at liberty to file the cause through the proper channel before the Deputy Registrar of this court if he is to agree with his erstwhile client regarding his legal fees.

iii. The Applicant shall pay costs to the Respondent which I hereby assess at Ksh.15,000/= (Fifteen thousand only).

Dated, Signed and Delivered at Kitui this 26th day of January 2021.

R.K.Limo

JUDGE