



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

CIVIL MISC APPL. NO. 2 OF 2017

FIONA A. BADIA T/A F.A. BADIA & CO. ADVOCATES.....APPLICANT

-VERSUS-

AUGUSTINO ONANDA.....RESPONDENT

RULING

- 1) This ruling is in respect of two applications. The first application is the motion dated 22nd February 2021 taken out by the firm of F. A. Badia & Co. Advocates, the applicant herein, in which the law firm seeks for entry of judgment against Augustino Onanda in terms of the certificate of taxation dated 22/1/2021.
- 2) The second application is the motion dated 5th March 2021 in which Virginia Ngari, the objector herein seeks for *inter alia* the attachment of her goods in execution of the decree to be raised and for the property to be released to her forthwith.
- 3) I think it is appropriate to first determine the objector's application. It is the submission of the objector that Valley Auctioneers on the instructions of F. A. Badia & Co. Advocates visited her house and attached her goods listed in the inventory prepared by the auctioneer. The objector stated that she is not the judgment/debtor nor a party to the suit.
- 4) F. A. Badia opposed the objector's application arguing that the objector had filed a similar application which was heard and dismissed by Justice Chitembwe in a ruling the learned judge delivered on 4th March 2021. The objector did not controvert the averments of M/s F. A. Badia.
- 5) In absence of any evidence to the contrary, I find the objector's application dated 5th March 2021 to be resjudicata. The same is ordered dismissed with costs to the respondent/advocate.
- 6) In the application dated 22/2/2021, the applicant/advocate is mainly seeking for entry of judgment in terms of the certificate of taxation dated 22/1/2021. Augustino Onanda filed a replying affidavit to oppose the motion stating that he had paid the advocate/applicant her legal fees.
- 7) Having considered the material placed before this court, it is not in dispute that the advocate/applicant was issued with a certificate of taxation dated 22nd January 2021 taxing the applicant/advocate's Bill of Costs dated 15th January 2021 at kshs.24,273/=.
- 8) It is also apparent that despite having knowledge of the advocates taxed costs, the client/respondent has not disputed nor challenged the same by way of reference.
- 9) In the absence of any objection to the taxation on the part of the respondent, the advocate/applicant is entitled to have judgment in terms of the certificate of taxation. I find the motion dated 22nd January 2021 to have merit.
- 10) In the end, the objector's motion dated 5th March 2021 is dismissed with costs to the plaintiff/respondent. The motion dated 22nd February is allowed as prayed.

DATED, SIGNED AND DELIVERED ONLINE VIA MICROSOFT TEAMS AT NAIROBI THIS 21ST DAY OF MAY, 2021.

.....

J. K. SERGON

JUDGE

In the presence of:

.....for the Plaintiff

.....for the Defendants