



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIVASHA

(CORAM: R. MWONGO, J.)

MISCELLANEOUS CIVIL APPLICATION NO. 71 OF 2016

GEKONGA & CO ADVOCATES.....APPLICANT

VERSUS

PETER NGANGA NGAHO.....RESPONDENT

RULING

1. This is an application by Chamber Summons seeking the setting aside of the Taxing Officer's decision on taxation of costs.
2. The Taxing Officer's decision is impugned in respect of items 1, 2, 3, 6, 7, 9, 10 and 19 of his bill of costs dated 11th November, 2016 taxed at Shs 59,963/= down from Kshs 65,815/=.
3. In her Ruling the Taxing Master taxed off the said amounts "because they are not provided for under the schedule".
4. Items 1, 2 & 3 are indicated as attendances to the client. The applicant submitted that he attended the client on 6th February, 2009 to receive instructions on the claim: That this is provided under **Paragraph (c) of Part B Schedule VII Advocates Remuneration Order 2009**; That this should be read together with **Paragraph 4 of Part A Schedule VII** which provides for instructions.
5. Items 6 and 7 are for filing P3 Form said on behalf of the client and for Police Abstract procuring and processing. The applicant charged Kshs 1,000/= and Kshs 2,000/= respectively. He says these are costs paid by him which were not receipted. The Respondent stated in the lower court that he obtained these himself. The amounts having been disputed and in absence of receipts to prove the payments, the amounts are not payable.
6. Items 9 & 10 are for drawing and verifying an affidavit and for commissioning fees thereon. The applicant contends that **Schedule VII Paragraph 9** of the **Advocates Remuneration Order** provides an amount of Kshs 200 for drawing and filing an affidavit. That Kshs 100 was for commissioning. The first of the two amounts is payable but commissioning is not contained in the scale.
7. Item 19 is indicted as fees for drawing an affidavit of service. The applicant contends this falls under **Schedule VII Paragraph 9** of the **Advocates Remuneration Order** which allows for Shs 200/= for drawing and filing an affidavit. The amount is payable.
8. The **Advocates Remuneration Order** also provides for the minimum fee prescribed to be increased

by 50%, and I agree with the applicant on this aspect.

9. The filing of the Taxing Master is hereby set aside and it is ordered that the said Bill be taxed afresh taking into account this court's findings.

Administrative directions

10. Due to the current inhibitions on movement nationally, and in keeping with social distancing requirements decreed by the state due to the Corona-virus pandemic, this Judgment has been rendered through Teams tele-conference with the consent of the parties noted hereunder, who were also able to participate in the conference. Accordingly, a signed copy of this judgment shall be scanned and availed to the parties and relevant authorities as evidence of the delivery thereof, with the High Court seal duly affixed thereon by the Executive Officer, Naivasha.

11. A printout of the parties' written consent to the delivery of this judgment shall be retained as part of the record of the Court.

12. Orders accordingly.

DATED AND DELIVERED IN NAIVASHA BY TELECONFERENCE THIS 20TH DAY OF SEPTEMBER, 2021.

R. MWONGO

JUDGE

ATTENDANCE LIST AT VIDEO/TELECONFERENCE:

1. KEBERENGE FOR THE APPLICANT

2. NO REPRESENTATION - RESPONDENT IN PERSON

3. COURT ASSISTANT - QUINTER OGUTU