



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISUMU

MISC. CIVIL APPLICATION NO. 142 OF 2020

AMONDI & CO. ADVOCATES.....ADVOCATE/APPLICANT

-VERSUS-

COUNTY GOVERNMENT OF KISUMU....CLIENT/RESPONDENT

RULING

The application dated 24th May 2021 was brought pursuant to **Section 51 (2)** of the **Advocates Act**.

1. The application is premised upon a Certificate of Costs which was issued after the Advocate/Client Bill of Costs was taxed. Through the said application, the advocates prayed for Judgment to be granted in their favour, in terms of the taxed costs.

2. The advocates also prayed for interest to be awarded from the date of filing of the bill of taxation on 20th July 2020.

3. When canvassing the application, the Applicant noted that their Bill of Costs was served upon the Respondent on 21st July 2020.

4. Nonetheless, the advocates went ahead to assert, in their submissions, that they were entitled to interest at 14% per annum from the date when the Client gave them instructions.

5. In a nutshell, the Applicant does not appear to be clear about what their claim for interest is based upon. They appear to have 3 options, regarding the date from when the interest was claimable by them, namely;

a. the date when the bill was filed for taxation;

b. the date when the bill was delivered to the client; and

c. the date from when the client gave instructions to the advocates.

6. However, the advocate did not cite any statutory provision to support any of the 3 options.

7. In my considered view, the provisions of **Rule 7** of the **Advocates Remuneration Order** should guide the court when it is called upon to determine the question regarding interest that should be payable on the taxed costs.

8. Rule 7 stipulates thus;

“An advocate may charge interest at 14% per annum on his disbursements and costs whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, provided that such claim for interest is raised before the amount of the bill has been paid or tendered in full.”

9. The Client has submitted that the court should be guided by **Section 26** of the **Civil Procedure Act**, which gives to the Court the discretion to award interest at such rate as the court deems reasonable.

10. Section 26 provides that the court may award interest on the principal sum adjudged from the date of the suit to the date of the decree, in addition to any interest adjudged on such principle sum for any period before the institution of the suit. Thirdly, the court had discretion to

award further interest on the aggregate sum so adjudged, from the date of the decree to the date of payment or to such earlier date as the court may think is just.

11. In general terms, **Section 26** provides guidance to the court on how to determine the interest which is most appropriate in a decree for the payment of money.

12. However, when there is a specific provision in the **Advocates Act**, that addresses interest that is payable on the advocate's bill, I find that the Court should use the said provision rather than **Section 26** of the **Civil Procedure Act**.

13. In the event, interest herein will be payable from 28th December 2020, which is a date immediately after the expiry of one month from the date when the taxing officer delivered her ruling on taxation. During the said date, both parties were present in court, and therefore the client became aware of the quantum it was obliged to pay to the advocate.

14. I now enter Judgment in favour of the Applicant for the sum of Kshs 16,660/= with interest thereon at 14% per annum from 28th December 2020 until payment in full.

15. The Respondent will pay to the Applicant the costs of the application dated 24th May 2021.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 19TH DAY OF OCTOBER, 2021

FRED A. OCHIENG

JUDGE