



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

(CORAM: CHERERE-J)

MISC. CIVIL APPLICATION NO 151 OF 2018

BETWEEN

OTIENO, RAGOT & COMPANY ADVOCATES.....APPLICANT/ADVOCATE

AND

DORCAS P.M. OLUOCH OKEYO.....1ST RESPONDENT/CLIENT

JOSANA ACADEMY LIMITED.....2ND RESPONDENT/CLIENT

RULING

1. By a Notice of Motion dated 15th January, 2019 and filed on 13th February, 2019, brought under the provisions of Section 51 (2) of the Advocates Act, the Applicant/Advocate seeks the following orders:

1) That the Honourable Court be pleased to adopt the certificate of costs dated 15th October, 2019 for Kshs. 3,132,558.25 (three million, one hundred thirty-two thousand, five hundred fifty-eight and twenty-five cents) together with interest at 14% from 01.07.18 until payment in full

2) That costs of this application be borne by the Client/Respondent

2. The Respondent though served neither opposed the application nor sent representation when the matter came up for hearing on 12.02.2020.

3. I have considered the Application in the light of the supporting affidavit and annexures thereto. The bill of costs was taxed at **Kshs. 3,132,558.25 (three million, one hundred thirty-two thousand, five hundred fifty-eight and twenty-five cents)** and a certificate in respect thereof dated 15.10.19 was issued on 06.02.19.

4. It is not disputed that the advocate acted for the client in **KISUMU ELC NO. 69 OF 2013**. Since retainer is not denied, the Advocate/Applicant is entitled to its costs.

5. Regarding interest, I have considered the provisions of Rule 7 of the Advocates Remuneration Order which provides: -

“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, providing such claim for interest is raised before the amount of the bill has been paid or tendered in full.”

6. This file does not contain evidence of when the bill of costs was served on the Respondents.

7. The upshot of this is that Notice of Motion dated 15th January, 2019 and filed on 13th February, 2019 succeeds and is allowed in the following terms:

a) Judgment is hereby entered for the advocate against the Respondent for Kshs. 3,132,558.25 (three million, one hundred thirty-two thousand, five hundred fifty-eight and twenty-five cents)

b) Interest shall be paid at 14% from the date of this judgment till payment in full

c) The Advocate will also have the costs of this application.

DATED, DELIVERED AND SIGNED ON THIS 20th DAY OF FEBRUARY, 2020

T.W. CHERERE

JUDGE

Read in open court in the presence of-

Court Assistant - Okodoi

For Applicant/Advocate - Ms. Asewe

For Respondents/Clients - N/A