



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISUMU**

**(CORAM: CHERERE-J)**

**MISC. CIVIL APPLICATION NO 21 OF 2019**

**BETWEEN**

**ODHIAMBO OWITI & COMPANY ADVOCATES...ADVOCATE/RESPONDENT**

**AND**

**STEPHEN ODERO WANGA.....APPLICANT/CLIENT**

**RULING**

1. The suit for which the certificate of costs dated 03.04.19 was issued on 11.04.19 was initially filed as **MIGORI HIGH COURT LAND CASE NO. 873 OF 2017**. It was subsequently transferred to Mbita Magistrate's Court and allocated file number **MBITA ELC NO. 10 OF 2017**.

2. This court enjoys countrywide unlimited jurisdiction in Criminal and Civil matters except in matters reserved for the exclusive jurisdiction of the Supreme Court under the Constitution or falling within the jurisdiction of the courts contemplated in Article 162 (2) of the Constitution.

3. Whereas it is a fact that there is no High Court in Mbita, Section 15 of the Civil Procedure Act (Cap 21 Laws of Kenya) provides that suits be instituted where defendant resides or cause of action arose.

4. From the foregoing therefore, I am persuaded that the Respondent's Bill of Costs ought not to have been taxed by the taxing master at the High Court in Kisumu.

5. In the result, the chamber summons dated 30<sup>th</sup> January, 2020 filed on 04<sup>th</sup> February, 2010 is allowed in the following terms:

**1) The certificate of costs dated 03.04.19 issued on 11.04.19 is set aside in its entirety.**

**2) This case is transferred to the Taxing Master at the High Court in Migori for fresh taxation of the Advocate's/Client's bill of costs dated 25<sup>th</sup> February, 2019 and filed on 27<sup>th</sup> February, 2019.**

**3) The Advocate/Respondent is condemned to pay the costs of this application to the Applicant/Client.**

**DATED, DELIVERED AND SIGNED ON THIS 12<sup>th</sup> DAY OF March 2020**

**T.W. CHERERE**

**JUDGE**

**Read in open court in the presence of-**

Court Assistant - Amondi

For Applicant/Advocate -Achieng

For Respondent/Client -N/A