

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

MISCELLANEOUS APPLICATION NO 69 OF 2018

WAIGANJO WACHIRA & CO ADVOCATES.....ADVOCATES

VERSUS

PACIS INSURANCE COMPANY LIMITED.....CLIENT

RULING

1. The Applicant's Notice of Motion application dated 4th July 2019 and filed on 10th July 2019 sought entry of judgment for the taxed Advocate/Client Costs of Kshs 100,599/= contained in the Certificate of Taxation dated 24th June 2019 with interest thereon at the rate of fourteen (14%) per cent per annum with effect from 22nd January 2018 until payment in full. It also prayed for costs to be awarded to the Applicant herein.

2. The said application was supported by the Affidavit of James Ichaura Wachira that was sworn on 4th July 2019. He stated that he was instructed by the Respondent herein to represent its insured in **Nairobi Civil Case No 7981 of 2016 Cliff Nyauma Obegi vs Bernard W. Kanyingi & Another** and the firm of M/S S. O. Madialo & Co Advocates entered appearance for the opposing party.

3. He averred that on 22nd January 2018, the Applicant filed an Advocate/Client Bill of Costs and a Certificate of Taxation for Kshs 100,599/= which was duly issued on 24th June 2019. It was his contention that it was in the interests of justice that judgment be entered as had been sought by the Applicant herein so that it could recover the full amount due to it.

4. On 30th October 2019, this court granted the Respondent herein an opportunity to file its response to and Written submissions in respect of the present application. However, as the time it reserved its Ruling, the Respondent had not filed the aforesaid documentation.

5. It was therefore apparent that the present application was unopposed. However, the court could not grant the orders sought as a matter of course and therefore carefully considered the said application.

6. A perusal of the Affidavit of James Ichaura Wachira advocate and the grounds on the fact of the present application showed that the Advocate-Client Bill of Costs was taxed and a Certificate of Costs issued as aforesaid. There was no dispute on retainer of the Applicant by the Respondent. There was also on evidence that the Respondent had filed a reference that was pending hearing and/or determination and/or that the aforesaid Taxation of Costs had been set aside and/or vacated.

7. As advocates do not offer any charity work to clients when they offer their legal services and must then be paid their dues, this court came to the firm conclusion that the Applicant had satisfied it that it was entitled to the said costs.

DISPOSITION

8. Accordingly, the upshot of this court's ruling was that the Applicant's Notice of Motion application dated 4th July 2019 and filed on 10th July 2019 was merited and the same is hereby allowed as prayed.

9. It is so ordered.

DATED and DELIVERED at NAIROBI this 30th day of June 2020

J. KAMAU

JUDGE