



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KISUMU**

**(CORAM: CHERERE-J)**

**MISC. CIVIL APPLICATION NO 120 OF 2016**

**BETWEEN**

**OTIENO, RAGOT & COMPANY ADVOCATES.....ADVOCATE/RESPONDENT**

**AND**

**NATIONAL BANK OF KENYA LIMITED.....CLIENT/APPLICANT**

**JUDGMENT**

1. By a notice of motion dated 28.10.16, brought under Section 51 of the Advocates Act Cap 16 Laws of Kenya; the Applicant prays for orders **THAT**: -

**a. The certificate of costs dated 11.10.16 in respect of the taxation order made on 11.10.16 for the sum of Kshs. 1,278,254.88 be adopted as judgment and decree of this Honourable Court**

**b. The applicant be awarded interest accrued on the costs at 14% per annum from 02.09.16 until payment in full**

**c. The costs of this application be borne by Client/Respondent**

2. The motion is premised on the grounds on the body of the application among them that the Client/Respondent retained the Advocate/Applicant to act for it in **KISUMU HCCC NO. 15 OF 2012 NYANZA MANAGEMENT LTD V NATIONAL BANK OF KENYA LTD & OTHERS** and the supporting affidavit of David Otieno, Advocate of the High Court of Kenya, sworn on 28.10.16. He avers that the Applicant filed an Advocate-Client Bill of Costs which was taxed at Kshs. 1,278,254.88 and a certificate of taxation dated 11.10.16 was issued for the said sum on 26.10.16. That the Respondent has not paid the said amount and the Applicant requests for judgment for the entire sum.

3. I have perused the file as a whole and I did not see any response from the Respondent.

**Analysis and Determination**

4. I have considered the Notice of Motion in the light of supporting affidavit and annexures thereto.

5. The Advocate-Client Bill of Costs which was taxed at Kshs. 1,278,254.88 and a certificate of taxation dated 11.10.16 was issued for the said sum on 26.10.16. Since retainer is not denied, the Advocate/Applicant is entitled to its costs.

6. 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.”**

7. The notice of taxation of the bill of costs was served on the firm of Otieno, Yogo & Ojuro & Company Advocates on behalf of the Respondent on 12.08.16. Interest shall therefore accrue at 14% per annum from 12.09.16.

8. In the end, it is therefore hereby ordered THAT:

**a. Judgment is hereby entered for the advocate against the Respondent for Kshs. 1,278,254.88 (one million, two hundred seventy-eight thousand, two hundred, fifty-four shillings and eighty-eight cents)**

**b. Interest shall be paid at 14% from 07th July, 2016 till payment in full**

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

**DATED IN KISUMU ON THIS 22nd DAY OF September, 2020**

**T.W. CHERERE**

**JUDGE**

**Court Assistants**

**For Client/Applicant**

**For Advocate/Respondent**

**- Ms. Amondi/Ms. Okodoi**

**- Mr. Ragot for Owiti, Otieno & Ragot Advocate**

**- Ms. Namsubo for Otieno, Yogo, Ojuro & Co. Advocates**

**Order**

**This Judgment has been delivered to the parties by electronic mail due to measures restricting court operations due to the COVID-19 pandemic.**