



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL AND TAX DIVISION

MISCELLANEOUS APPLICATION NO. E114 OF 2019

KINYANJUI NJUGUNA & CO. ADVOCATES.....ADVOCATE/APPLICANT

-VERSUS-

AFRICA MERCHANT ASSURANCE CO. LTD.....CLIENT/RESPONDENT

RULING

1. Through the application dated 4th June 2020 the applicant seeks the following orders: -

1. That the honourable court be pleased to enter judgment in favour of the applicant herein, in terms of the certificate of taxation dated 13th December 2019 in the sum of Kshs 182,553/- (One hundred and eighty-two thousand five hundred and fifty-three).

2. That subject to prayer 1, the honourable court be pleased to issue a decree/judgment above for Kshs 182,553/- plus interest be provided for at 14% per annum from 19th April 2018 until payment in full.

3. That the cost of the application be provided for.

2. The application is supported by the advocates affidavit dated 4th June 2020 and is premised on the grounds that: -

1. That the applicant's bill of costs dated 12th April 2019 in the above captioned matter has since been taxed.

2. That the respondent never filed any response to the said bill of costs notwithstanding service.

3. That pursuant to paragraph 1 herein certificate of taxation dated 13th December 2019 has since been drawn signed and issued.

4. That the respondent has continually neglected and/or failed to pay legal fees duly earned despite demand and notice by the applicant.

5. That the respondent is facing a liquidity crisis and the recovery of funds is in jeopardy.

6. That the instant application is necessitated by the fact, the financial liquidity of the respondent is unknown vis-à-vis in question.

7. That an advocate is legally entitled to fees duly earned in the course of service line with the advocate Remuneration order.

8. That the respondent does not dispute the fees.

9. That the instant application is made in the sole interest of justice and in due realization of legal fees earned by the applicant.

10. That if the court fails to grant the orders sought herein the applicant is likely to suffer gross prejudice, as the financial liquidity of the respondent is in question.

11. That the applicant is entitled to the judgment/decree/interest.

3. When the matter came up for hearing on 22nd October 2020, **Mr. Onyango** for the applicant intimated to the court that the application was not opposed as the respondent had not filed any response despite proper service. He thus urged the court to allow the application as prayed.

4. I have perused the application together with the supporting affidavit and I am satisfied that it is merited.

5. A perusal of the affidavit of service dated 14th October 2020 indicates that the respondent was duly served with the application.

6. Consequently, I allow the application dated 4th June 2020 as prayed.

Dated, signed and delivered via Microsoft Teams at Nairobi this 26th day of November 2020 in view of the declaration of measures restricting court operations due to Covid -19 pandemic and in light of the directions issued by his Lordship, the Chief Justice on the 17th April 2020.

W. A. OKWANY

JUDGE

In the presence of:

Mr. Muturi for Onyango for applicant.

No appearance for respondent

Court Assistant: Silvia