



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL AND TAX DIVISION

MISCELLANEOUS APPLICATION NO. 93 OF 2019

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

-VERSUS-

KENYA ORIENT INSURANCE CO. LTD.....CLIENT/RESPONDENT

RULING

1. Through the application dated 5th March 2020 the applicant seeks the following orders: -

1. That the honourable court be pleased to consolidate the instant matter with:

Milimani Miscellaneous Application No. 94 of 2019

Milimani Miscellaneous Application No. 96 of 2019

Milimani Miscellaneous Application No. 143 of 2019

Milimani Miscellaneous Application No. 146 of 2019

2. That pursuant to prayer 1, the honourable court be pleased to enter judgment above for Kshs 1,829,062/- tabulated as hereunder: -

Milimani Miscellaneous Application No. 94 of 2019 ksh 434,531

Milimani Miscellaneous Application No.96 of 2019 kshs 433,671

Milimani Misc. Application No. 143 of 2019 kshs 375,531

Milimani Misc. Application No. 146 of 2019 kshs 585,329

Total = 1,829,062/-

3. That interest be provided for at 14% per annum from 4th September 2017 until payment in full.

4. That the cost of the application be provided be awarded to applicant.

2. The application is supported by the advocates affidavit dated 5th March 2020 and is premised on the grounds that: -

1. That the applicant's bill of costs 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 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/decreed/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 15th September 2020 also indicates that the respondent was duly served with the application.

6. Consequently, I allow the application dated 5th March 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: Sylvia