

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MISC CIVIL APPLICATIONS NO. 492 OF 2017

WAIGANJO WACHIRA & COMPANY ADVOCATESAPPLICANT

VERSUS

PACIS INSURANCE COMPANY LIMITED.....RESPONDENT

RULING

This application relates to a bill of costs lodged by the advocates against their client. The respondent who is the client has raised an objection to the decision of the taxing master raising several reasons as contained in the Chambers Summons dated 7th and filed on 13th February, 2019.

For reasons that I am about state, I do not wish to recite most of the reasons advanced by the respondent in challenging the said bill of costs. A bill of costs is akin to pleadings after completion of litigation. Going by the understanding that every party is bound by its pleadings, the observations that the taxing master awarded more costs than those requested by the applicant is sufficient ground to challenge the award.

Additionally, the Advocates Remuneration Order contains express particulars of all items that attract fees payable. If a party therefore, alleges that costs have been pleaded and awarded where this should not be done, intervention of the court may be called for.

Out of abundant caution, I do not deem it appropriate to delve any deeper into the submissions and averments by the parties herein. Suffice to say, sufficient grounds have been made to warrant the court's interference with the taxing of the bill of costs herein. That being the case, the decision of the taxing master is hereby set aside in its entirety. The bill of costs shall be subjected to taxation by a different taxing master upon invitation of both parties to participate in the exercise. The costs shall be in the cause.

Dated, signed and delivered at Nairobi this 25th Day of July, 2019.

A. MBOGHOLI MSAGHA

JUDGE