



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

MISC. APPLICATION NO. 18 OF 2019

ODHIAMBO OWITI & CO. ADVOCATES.....APPLICANT/ADVOCATE

-VERSUS-

DOMINION FARMS LIMITED.....RESPONDENT/CLIENT

RULING

On 29th May 2019 the learned Taxing Officer taxed the Advocate/Client Bill of Costs, and awarded to the Advocate costs in the sum of Kshs 1,009,655/=.

1. Following the said taxing, the Taxing Officer issued a Certificate of Costs.
2. It is common ground that the Certificate of Costs has not been set aside or varied by the Court.
3. Accordingly, pursuant to **Section 51 (2)** of the **Advocates Act**, I find that the sums certified as taxed costs have become due and payable by the Client.
4. Therefore, I now enter judgment in favour of the Applicant, against the Respondent for the sum of Kshs 1,009,655/= together with the costs of the application dated 8th July 2019.
5. Pursuant to **Rule 7** of the Advocates (Remuneration) Order, interest is payable on the Advocate's fees, from a date which is one month after the time when the Fee Note is served upon the Client.
6. The Advocate has not demonstrated to this Court the date when the Fee Note was served upon the Client.
7. In so finding, I have not overlooked the fact that the Advocate/Client Bill of Costs was served upon the Client on 21st February 2019.
8. The Bill of Costs constitutes an itemized statement of the amount of costs being claimed by the Advocate, against his client.
9. Until such time that the Taxing Officer renders a determination after taxation, neither the Advocate nor the Client knows the quantum of costs that would ultimately be held as payable.
10. Therefore, in my considered opinion, until the Taxing Officer renders a verdict after conducting the taxation of a Bill of Costs, it would be unfair to condemn the Client to pay interest on an amount which had not yet been determined.
11. In this case, the advocate did not provide me with evidence of the date when the Certificate of Costs was served upon the Client.
12. Therefore, I now order that the Interest on the judgment amount shall be at Court Rates, with effect from the date of Judgment.

DATED, SIGNED and DELIVERED at KISUMU

This 28th day of November 2019

FRED A. OCHIENG

JUDGE