



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KITALE**

**MISC APPLICATION NO. 74 OF 2019**

**PETER N. KIARIE P/A KIARIE AND CO. ADVOCATES.....APPLICANT**

**VERSES**

**JONAS MISTO VINCENT KUKO..... RESPONDENT**

**RULING**

1. The applicant prays in his application dated **31<sup>st</sup> July, 2019** that judgment be entered against the Respondent for the sum of kshs. **3, 358, 282.40** together with costs and interest. He also prays that he be granted leave to execute against him.
2. The application is supported by his affidavit sworn on the even date. In it he has attached a bill of costs as well as a decree from the Deputy Registrar of this court which shows the above sum awarded to him against the Respondent. He avers that the respondent has since refused to pay hence this application.
3. The Respondent in his replying affidavit dated **24<sup>th</sup> October, 2019** has admitted that indeed the applicant acted for him and that they verbally agreed a sum of kshs.2 million to be his fees. He paid the sum of Kshs. 725,000 based on that understanding. He denied that he was ever served with a fee note and that he is in the process of challenging the Deputy Registrars decision.
4. This court finds that there is merit in the application to the extent that the Registrars decree is valid and the same has not been challenged. Secondly it seems that the basic challenge the Respondent has with the bill of costs is the sum awarded otherwise he does not deny the indebtedness.
5. This court will not venture into the desire of the Respondent to challenge the taxation by the taxing master. Since in any even the same is simply a proposal I do not think it is proper to consider it within this application.
6. The upshot is that the application is hereby allowed in terms of prayers 1, 2 and 3 thereof.

**Dated signed and delivered in open court this 18<sup>th</sup> day of December, 2019.**

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**H. K. CHEMITEI**

**JUDGE**

**18/12/19**

**In the presence of:-**

**Wanyonyi for Respondent**

**Ndarwa for Applicant**

**Court Assistant – Silvia**

**Ruling read in open court**