

REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CONSTITUTIONAL PETITION NO. 13 OF 2017

BETWEEN

CASETH AIKO OKIWI.....PETITIONER

AND

JAMES AGGREY MWAMU T/A

MWAMU & COMPANY ADVOCATES.....1ST RESPONDENT

CHAIRMAN, ADVOCATES COMPLAINTS

COMMISSION.....2ND RESPONDENT

JUDGMENT

I have looked at the petition and it seeks the following relief;

a) A declaration that the claimant is entitled to a refund of Kshs 40,000/= being the amount deposited with the 1st respondent's law firm for services which were not rendered.

When the matter came up for hearing, Mr Opiyo, learned counsel for the petitioner told the court that in essence the petitioner contests the bill of costs filed by the respondent being Kisumu HC Misc. 34 of 2017 against the petitioner.

The issue of a refund is a matter which can be dealt with the Deputy Registrar in the taxation. A Constitutional Petition is not an appropriate procedure for agitating a dispute of costs as the procedure for contesting advocates claims on fees is well provided for in the *Advocates Act (Chapter 16 of the Laws of Kenya)* and the *Advocates Remuneration Order*.

As there are no constitutional issues arising in the petition, it is hereby dismissed with no order as to costs.

Dated read and delivered in this 23rd day of January 2018.

D.S. MAJANJA

JUDGE

Mr Opiyo instructed by Opiyo and Associates Advocates for the petitioner.

Mr Mwamu instructed by Mwamu and Company Advocates for the respondent.