



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

MISC. CIVIL APPLICATION NO 334 OF 2015

OTIENO, RAGOT & COMPANY ADVOCATES.....APPLICANT/ADVOCATE

VERSUS

KENINDIA ASSURANCE COMPANY LIMITED.....RESPONDENT/CLIENT

JUDGMENT

1. By a notice of motion dated 29.11.17, brought under Section 51 of the Advocates Act Cap 16 Laws of Kenya; the applicant prays for orders:-

a. THAT the certificate of costs dated 3.3.17 in respect of a taxation order made on 3.3.17 for the sum of Kshs. 111,358.84 be adopted as judgment and decree of this Honourable Court

b. THAT the applicant be awarded interest accrued on the costs at 14% per annum from 10.1.16 until payment in full

c. THAT the costs of this application be borne by client/respondent

2. The motion is premised on the grounds on the body of the application and the supporting affidavit of Moreen Alinaitwe, advocate of the High Court of Kenya, filed on 15.12.17. She avers that the client instructed the advocate to act in **KISUMU HCCA NO. 52 OF 2010 CHANNAN AGRICULTURAL CONTRACTORS LTD VERSUS AGNETA ATIENO ONDITI**. That the bill of costs was taxed on 15.11.17 for the sum of Kshs. 111,358.84 and a certificate of taxation was issued for the said sum. That the client has not paid the said amount and the applicant requests for judgment for the entire sum.

3. When the application came for hearing on 16.1.18, Ms. Alinaitwe for the applicant and Ms. Aron for the respondent submitted that they were wholly relying on the supporting affidavit and the grounds of opposition respectively.

4. I have considered the supporting affidavit and the grounds of opposition and the respondent appears to be disputing the date when interest on costs should apply. Regarding interest, I have considered the provisions of Rule 7 of the Advocates Remuneration Order which provides: -

“An advocate may charge interest at 14% per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, providing such claim for interest is raised before the amount of the bill has been paid or tendered in full.”

5. The rate of interest awardable is applicable from 30 days after the date of service of the Bill of Costs. There is no evidence to show when the bill of costs was served by the firm of M/S Okong’o Wandago & Company entered appearance for the respondent on 17.12.16. In the absence of any other evidence, I shall adopt 17.12.15 as the date of service of the bill of costs. Consequently, (30) days from the delivery of the bill to the client expired on 16.1.16 and not 10.1.16 as prayed in the application.

6. The upshot of this is that the notice of motion dated 29.11.17, succeeds and is allowed in the following terms:

a) Judgment is hereby entered for the advocate against the Respondent for Kshs. 111,358.84

b) Interest shall accrue on the taxed costs at 14% per annum from 16.1.16 until payment in full

c) The Advocate will also have the costs of this application.

DATED AND DELIVERED ON THIS 15th DAY OF February 2018

T.W. CHERERE

JUDGE

Read in open court in the presence of-

Court Assistants - Felix and Carol

Applicant -

Respondent -