



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MISC. CIVIL APPLICATION NO. 79 OF 2017

ACHOLA JAOKO & CO. ADVOCATES.....APPLICANT

VERSUS

AFRICA MERCHANT ASSURANCE COMPANY LTD.....RESPONDENT

RULING

The Applicant/Advocate has moved this court by way of a Notice of Motion dated 13th day of November, 2017, under section 51 (2) of the Advocate Act and order 51 Rule 1 of the Civil Procedure Rules, Section 1A, 1B, 3 and 3A of the Civil Procedure Act cap. 21 laws of Kenya.

The orders sought in the application are that;

- (1) Judgment be entered for the applicant for Ksh.109,480/= together with interest at 14% per annum with effect from 18th October, 2017 being the date of taxation.
- (2) The Respondent be condemned to bear the costs of the application.

The application is supported by the annexed affidavit of Caleb Odhiambo Jaoko sworn on the 13th day of December 2017 in which it is deponed that, he was instructed to defend the Client/Respondent in Nairobi CMCC No. 6550 of 2008 which he prosecuted with due diligence.

That by a letter dated the 4th July, 2013, he informed the Respondent of the outstanding fees in various pending matters but he failed to pay the same, which led the Applicant to file his Bill of Costs which was taxed at Ksh.109,480/-. (A Copy of the certificate of taxation is annexed to the affidavit and marked **AJI**)

He further depones that the certificate of taxation has not been set aside and/or altered and that there is no dispute regarding the Retainer. He has urged the court to grant the application as prayed.

The Respondent did not oppose the application and when it came up for hearing, there was no representation on its part and therefore, the application proceeded exparte.

I have considered the application and the oral submissions made by the applicant.

There is a certificate of taxation that has not been challenged and the retainer is not disputed. In the circumstances, the court enters judgment for the applicant as prayed in the motion dated 13th December, 2017. Costs are also awarded to the Applicant.

Dated, Signed and Delivered at Nairobi this 19th Day of March, 2018.

.....

L. NJUGUNA

JUDGE

In the Presence of

..... *For the Applicant*

..... *For the Respondent*