



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISUMU

MISC. CIVIL APPLICATION NO. 311 OF 2015

WAMBAYI MAKOMERE t/a Wambayi

Makomere & Company Advocates.....ADVOCATE/APPLICANT

VERSUS

AFRICA MERCHANT ASSURANCE CO. LTD...CLIENT/RESPONDENT

JUDGMENT

1. By a notice of motion dated 28.9.17, brought under Section 51 Rule 1 of the Advocates Act Cap 16 Laws of Kenya; the Applicant prays for orders:-

- a. **THAT** the certificate of costs 27.7.17 for the sum of Kshs.114,939/- be adopted as judgment against the Respondent
- b. **THAT** the Applicant be awarded interest accrued on the costs at 14% per annum from 7.12.15 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 by Wambayi Makomere, Advocate of the High Court of Kenya, sworn on 28th September, 2017.

3. The bill of costs shows that the advocate acted for the client in **KISUMU CMCC 227/11 FLORENCE AUMA ONGORO V KOJA MOTORS & ANOR.**

4. When the Application came for hearing on 7.2.18, the Respondent, though served did not appear or oppose the Application and there is therefore no dispute as to retainer.

5. 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.”

6. 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 on the Respondent on 2.11.15. consequently, (30) days from the delivery of the bill to the client expired on 2.12.15 and interest started to accrue.

7. The upshot of this is that the notice of motion dated 28.9.17, succeeds and is allowed in the following terms.

- a) **Judgment is hereby entered for the Advocate against the Respondent for Kshs.114,939/-**
- b) **Interest shall accrue on the taxed costs at 14% per annum from 2.12.15 until payment in full**
- c) **The Advocate will also have the costs of this Application.**

DATED, DELIVERED AND SIGNED ON THIS 12th DAY OF April 2018

T. W. CHERERE

JUDGE

Read in open Court in the presence of

Court Assistants: Caroline

Appellant: N/A

For the state: N/A