



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KAKAMEGA**

**MISCELLANEOUS CIVIL APPLICATION NO. 477 OF 2016**

**OMAYA & CO. ADVCOATES.....APPLICANTS**

**VERSUS**

**MUMIAS SUGAR COMPANY LIMITED.....RESPONDENT**

**RULING**

1. The applicant has filed a notice of motion dated 13<sup>th</sup> March , 2018 seeking for orders that :-

- i. That judgment be entered for the applicant against the respondent for the taxed costs of Kshs. 357,952.80.
- ii. Interest be levied on the judgment sum at the rate of 14% from 21/07/2016 to the date of full payment.
- iii. That costs of this cause and of the entire miscellaneous application be provided for.

2. The application is premised on the grounds on the face thereof and supported by the affidavit of one **Alex Otieno Omay**a where he depones that:

1. The costs payable by the respondent to the applicant have been taxed and ascertained by the Deputy Registrar of this Court to be Kshs. 357,952.80 as per the annexed copy of certificate of costs.
2. That the applicant had prior to filing its bill of costs given the respondent the opportunity to pay his bill and allowed more than 30 days to pay but the respondent did not make use of that window of opportunity correspondence to indicate so were annexed to the application).
3. That since there is no denial of retainer, there is nothing left for determination between the parties.
4. That because the sum claimed ought to have been paid earlier on, the applicant prays for interest from 21/07/2016 which is some 30 days from the date the block bill of costs was delivered to the respondent for payment.

3. The application was served on the advocates for the respondent, **S.M. Onyango & Associates Advocates**, but the respondent did not file a response. A return of service sworn by the said Alex Otieno Omay to that effect was annexed to the application.

4. The application dated 13<sup>th</sup> march, 2018 has in the premises been served on the respondent who did not file any papers to oppose the application. The application thereby stands unopposed. The court has no reason to decline the application. In the circumstances, the application is allowed as prayed with costs to the applicant.

**Delivered, Dated and signed in open court at Kakamega this 20<sup>th</sup> day of June,2018**

**J. NJAGI**

**JUDGE**

In the presence of

Matete holding brief for Omayo.....for Applicant/Objector

N/A.....for Petitioner/Respondent

George.....Court Assistant.