



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MILIMANI CIVIL COURTS

CIVIL SUIT NO. 2098 OF 1993

M & E CONSULTING ENGINEERS.....PLAINTIFF/APPLICANT

VERSUS

LAKE BASIN DEVELOPMENT AUTHORITY.....DEFENDANT/RESPONDENT

AND

J. G. MWANGI T/A

FOREFRONT AGENCIES.....AUCTIONEER/APPLICANT

RULING

1. J. G. Mwangi T/A Forefront Agencies, the Auctioneer/Applicant took out the motion dated 2nd June 2015 in which he sought for the following orders:

i. THAT Honourable Court be pleased to extend the time for filing of the Auctioneer's/Applicant's amended bill of costs attached herein and the same be deemed as duly filed.

ii. THAT the matter do proceed for taxation of the auctioneer's bill of costs on costs.

iii. THAT costs be provided for.

2. The motion is supported by the affidavit of James Gitau.

3. It is the submission of the Applicant that on 9th December 2009, the firm of Otieno – Omuga & Ouma Advocates successfully applied and obtained leave of 30 days to file an amended Auctioneer's Bill of Costs. The Applicant stated that on 5th November 2013 he discovered that the aforesaid firm of advocates did not file the amended Bill of Costs within the period given and he has now come before this court to seek for an further extension of the aforesaid period.

4. It is apparent that the Applicant was given 30 days to file an amended Auctioneer's Bill of costs with effect from 9th December 2009. The Applicant did not do so until 2nd June 2015 when he filed the current motion. It took the Applicant more than five years to file the current application to seek for extension of time.

5. The discretion whether or not to extend time limited by court is unfettered. However, a party who seeks to have time extended must give plausible reasons to justify such an order. In this case, the Applicant merely stated that his former advocate did not file the intended annexed Auctioneer's amended Bill of Costs within the time given. He did not advance any ground or reason to explain that failure or delay.

6. In the circumstances, I find the motion to be without any foundation nor merits. It is dismissed with no order as to costs.

Dated, Signed and Delivered in open court this 24th day of July, 2018.

.....

J.K. SERGON

JUDGE

In the presence of:

.....For the Plaintiff

.....For the Defendant