

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

MISC. APP.156 OF 2016

MATIRI MBURU & CHEPKEMBOI.....APPLICANTS

-VERSUS-

INVESCO ASSURANCE CO. LTD.....RESPONDENT

RULING

1. The application before me was filed by Matiri Mburu & Chepkemboi Advocates. It seeks orders that the certificate of costs dated 14th October 2016 be adopted as Judgment of the Court and Costs of the application. The Supporting Affidavit sworn by Njuguna Matiri Advocate avers that the applicant filed a bill of costs dated 14/4/2016 against the respondent. The said bill was subsequently taxed by the Deputy Registrar of the Court at Kshs.51,900 on 12/10/2016 and a certificate dated 14/10/2016 issued.

2. The respondent did not attend court during the hearing on 13/3/2017. Ms. Kamau for the applicant told the court that the applicant had served the hearing notice. She displayed an affidavit of service and notice duly received by Ngaywa Ngigi & Kibet Advocates for the respondent.

The matter therefore proceeded in the absence of the respondents.

3. In urging the application, Ms. Kamau reiterated the averments in the supporting affidavit aforesaid. She only added that the respondents had failed to respond when served with the certificate of costs. She expressed anxiety that the respondent was undergoing financial crisis and might not pay up the costs.

4. I have considered the application. It is brought under Section 51 (2) of the Advocates Act which states:

“The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the court, be final as to the amount of the costs covered thereby, and the Court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.”

5. I have also perused the file. I note that there is no reference filed by the respondent challenging the certificate. None has been brought to my attention either and no opposition was filed in respect to the present application. In the premises, I allow the application dated 9/11/2016 and order that the certificate of costs dated 14/10/2016 is hereby adopted as Judgment of the Court.

Ruling delivered, dated and signed this 30th day of March 2017

R. LAGAT KORIR

JUDGE

In the presence of:

C/A Wanjohi

..... *for applicants*

.....*for respondent*