

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

CIVIL MISC APPLICATION NO. 34 OF 2015

ACHOLA JAOKO & CO ADVOCATES.....APPELLANT

VERSUS

AFRICAN MERCHANT ASSURANCE CO. LTD.....RESPONDENT

RULING

1. This is an application brought under sections 51 (2) of the Advocates' Act and under Order 51 Rule 1 of the Civil Procedure Rules and sections 1A, 1B, 3, 3A of the Civil Procedure Act (Chapter 21 of the Laws of Kenya) and the enabling provisions of the law. In his application the applicant has sought entry of a judgement in the sum of Kshs 189,805/-, which are his legal fees for services rendered to the respondent. A certificate of taxation dated 9th July 2015 and signed by the Deputy Registrar was to annexed to the supporting affidavit.
2. According to counsel for the applicant, the above amount which is based on the certificate of taxation has not been set aside nor is it disputed.
3. In his supporting affidavit, the applicant has stated that he was instructed by the respondent to defend it in a suit filed in Kerugoya SRMCC 88 of 2009 which he did. After delivery of judgement, the respondent was dissatisfied with the outcome following which he filed an appeal in the High Court at Nyeri, being Nyeri HCCA No 1 of 2010. The same appeal was transferred to this court and was assigned Embu HCCA 34 of 2015. The applicant further states that he prosecuted this matter with due diligence, expertise, labour, and skill in the preparations regarding the pleadings, correspondence and attending court matters. Thereafter he filed a bill of costs which was taxed and a certificate of costs issued.
4. When the matter came for hearing, there was no appearance for the respondent. However, there was evidence that the respondent was served with a hearing notice and had adequate notice of that hearing. The hearing therefore proceeded in his absence.
5. I have considered all these matters and I am satisfied that the applicant is entitled to the judgement in the sum of Kshs 189,805/- which I hereby enter for the applicant. He is also entitled to the costs of this application.

RULING DATED, SIGNED and DELIVERED in open court at **EMBU** this **18th** day of **FEBRUARY 2016**

In the presence of Mr Kathungu holding brief for Mr Jaoko for the appellant and in the absence of the Respondent

Court clerk Njue

J.M. BWONWONGA

JUDGE

18.02.16