



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO

MISC. APPLICATION NO.3 OF 2013

ONESMUS LANGAT & CO. ADVOCATES::: APPLICANT

VRS

COUNTY GOVERNMENT OF KERICHO :::::RESPONDENT

RULING

The Notice of Motion application dated 28th January, 2016 and which is expressed to be brought under section 51 (2) of the Advocates Act, Section 3A of the Civil Procedure Act in the main seeks the following orders:

- (1) That the court be pleased to enter judgment and decree in favour of the Applicants and against the Respondent in the sum of ksh.3,120,709/70/- being taxed and certified costs due to the Applicants arising out of their acting for the Respondent in HCCC No.3 of 2013.
- (2) That the court be pleased to award interest to the Applicants at court rates on the said sum of ksh.3,120,709/70 from the date of taxation till payment in full.
- (3) Costs of the application.

The grounds are that:

- (1) The bill of costs was taxed on 17th February, 2015 in the sum of ksh.3,120,709/70 all inclusive and a certificate of taxation issued to that effect.
- (2) The Respondent has not paid the aforesaid taxed sum.
- (3) The certificate of taxation has not been set aside or altered.

The application is opposed on the grounds that the legality of the taxation is challenged. The Applicant was an employee of the Respondent and therefore should not be seen to be remunerated twice. At the time he was purportedly rendering services, he was purportedly rendering services, he was not a qualified advocate.

The Respondent had in a Notice of Motion dated 18th July, 2015 sought orders for stay of the execution of the bill of costs taxed at ksh.3,120,709/70 and for striking out the certificate of taxation dated 26/2/2016.

Lady Justice Ong'udi correctly observed that taxation is provided for under the advocates remuneration

order and in particular paragraph 11 which stipulates thus;

- i. Should any object to the decision of the taxing officer, he may within 14 days after the decision give notice in writing to the taxing officer of the items of taxation to which he objects.
- ii. The taxing officer shall forthwith record and fortified to the objector the reasons for his decision on those items and the objector may within fourteen days from the receipt of the reasons apply to a judge by chamber summons which shall be served on all the parties concerned setting out the ground of his objection.
- iii. Any person aggrieved by the decision of the judge upon any objection referred to such judge under paragraph (2) may, with the leave of the judge but not otherwise appeal to the Court of Appeal.

At this stage of proceedings the Respondent cannot challenge the certificate of taxation which has not been varied or set aside. It is deemed a valid certificate. The Respondent has not shown that it has paid the taxed sum of ksh.3,120,709/70.

I accordingly enter judgment as prayed plus interest at court rates from the date of taxation until payment in full. Costs to the Applicant.

Ruling delivered, dated and signed this 31st day of May, 2016 in open court and in the presence of lead counsel for the Applicant, lead counsel for the Respondent absent and court assistant Hillary present.

M. MUYA

JUDGE

31/05/2015