

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL DIVISION

MISC. APPL.CASE NO. 40 OF 2016

KOKI MBULU & CO. ADVOCATES.....APPLICANT

VERSUS

BRUCE DOMINIC ODHIAMBO.....RESPONDENT

RULING

1. The application dated 6th May, 2016 seeks orders that:-

“1. THAT this Honourable court be pleased to set aside the decision of the taxing officer under order dated 21st day of April 2016

2. THAT this Honourable Court be pleased to remit the Bill of Costs dated 1st day of February 2016 to the Deputy Registrar for fresh taxation, with directions on the conduct of the taxation.

3. THAT the costs of this Application be provided for.”

2. It is stated in the affidavit in support that the Bill of Costs dated 1st February, 2016 was taxed on the 18th April, 2016 under the provisions of Schedule V of the Advocates (Remuneration) Order. That the taxing officer taxed the bill of costs at Kshs.327,020/=. The Applicant was dissatisfied with the decision of the taxing officer, hence this application. The Applicants contention is that the taxing officer misdirected herself and erred in principle and failed to exercise her discretion judicially in accordance with the established principles of law.

3. The application is opposed. It is deposed in the replying affidavit that the sum objected to is the increase by ½ of Ksh.197,000/= which comes to ksh.98,500/=. That in the premises the amount that is not disputed plus VAT of Kshs31,520/= ought to be paid pending the determination of the propriety and legality of the sum of Ksh. 98,500/=.

4. During the hearing of the application, the counsels for the respective parties herein made oral submissions which I have duly considered.

5. Both counsels herein are in agreement that the disputed amount is the sum of Ksh.98,500/=. Both counsels are also in agreement that the said amount of Ksh.98,500/= can be subtracted from the total of Ksh.327,020/= instead of remitting the entire Bill of costs for re-taxation. The position taken by the counsels is supported by the provisions of Schedule V of the Advocates (Remuneration) Order. Consequently, I proceed to deduct the said sum of Ksh.98,500 from the taxed amount, which brings the total to Ksh228,520/=.

6. With the foregoing, the application is partly successful. The decision of the taxing officer dated 21st April, 2016 it is hereby set aside and the Advocate Client Bill of Costs is taxed at Ksh228,520/=. Costs of the application to the Applicant.

Dated, signed and delivered at Nairobi this 18th day of August, 2016

B THURANIRA JADEN

JUDGE