



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

MISC. CAUSE NO. 199 OF 2015

IN THE MATTER OF TAXATION OF THE ADVOCATE – CLIENT BILL OF COSTS

OTIENO RAGOT AND CO. ADVOCATES APPLICANT/ADVOCATE

VERSUS

KENINDIA ASSURANCE CO. LIMITED RESPONDENT/CLIENT

ARISING FROM

KISUMU HCCA NO. 181 OF 2001

UNITED MILLERS LIMITED PLAINTIFF

VERSUS

NYANZA SUGAR AND PRODUCE LTD. DEFENDANT

JUDGMENT

By the Notice of Motion dated 2nd February 2016 but filed herein on 17th February 2016 the Advocate/Applicant is seeking judgment for the certified costs of Kshs.102,741/2 together with interest at 14% per annum from the date of the certificate of costs until payment in full. He also seeks the costs of this application.

The Client/Respondent has filed grounds of opposition the gist of which is that being dissatisfied with the decision of the taxing master he filed a notice of objection pursuant to paragraph 11 of the Advocates Remuneration Order and requested for the taxing officer's reasons but is yet to receive the reasons to enable her file the reference. She contends that the application is made under the wrong provisions of the law and further that as the costs have been settled vide a cheque No. 033324 it has been overtaken by events.

This application was heard together with that in Misc. Application No. 78 of 2015 which involves the same parties and the submissions there were to apply Mutatis Mutandis to this case. There Miss Aron, for the Client, submitted that their only contention was with the interest as the same is to be levied from the date of the certificate of costs. In this case it is contended that judgment should not be entered as the Client has filed an objection. With due respect that submission cannot be taken seriously firstly, because whereas it is true that the Advocate for the Client requested for the reasons for the taxation so as to file a reference there is nothing to demonstrate her seriousness in pursuing those reasons. The letter asking for the reasons is dated 26th January 2016 and not even the service of this application upon them on 18th February 2016 could awaken them to the pursuit of those reasons. Secondly, were they intent on pursuing

the reference they would not have settled the costs as they allege to have done. The cheque referred to in paragraph 5 of the Grounds of Opposition was not annexed so this Court is not in a position to tell when the costs were settled. That notwithstanding the payment of the cheque to the Advocate demonstrates that the costs were not contested.

The Advocate seeks interest from 14th January 2016 when the certificate of costs was issued until payment in full. My finding is that the Advocate is so entitled to interest at 14% per annum from 14th January 2016 upto the date the costs were paid or if they have not been paid until payment in full. It is so ordered.

Signed, dated and delivered at Kisumu this 29th day of September 2016

E. N. MAINA

JUDGE

In the presence of:-

N/A for the Applicant/Advocate

N/A for the Respondent/Client

CC: Moses Okumu