



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CIVIL DIVISION**  
**HIGH COURT CIVIL MISC APPL. NO. 97 OF 2016**  
**JACKSON OMWENGA & CO ADVOCATES.....APPLICANT**  
**VERSUS**  
**EVEREST ENTERPRISES LIMITED..... DEFENDANT**  
**RULING**

1. The application dated 4<sup>th</sup> July, 2016 seeks orders that:-

**“1.The sum of Kshs 118,410/= being taxed costs be made the judgement of the court.**

**2. That the taxed costs of Kshs 118,410/= be paid with interest at the rate of 14% from 02.11.2010 being the date of instructions until payment in full pursuant to paragraph 7 of the Advocates Remuneration Order.**

**3. The cost of the application be provided for.”**

2. It is stated in the affidavit in support that the Advocate-client bill of costs was taxed on 17<sup>th</sup> May, 2016 at Kshs.118,410/=. That the said taxation has not been objected to and therefore judgment ought to be entered for the taxed amount plus interest.

3. The application is opposed. The Respondent filed the grounds of opposition dated 4<sup>th</sup> August, 2016. The said grounds are that:-

**“1. There is no justification for the prayer for interest at 14% on the certified cost from the date of 2<sup>nd</sup> November, 2010.**

**2. Without prejudice to the foregoing, the Application cannot under Law earn interest on V.A.T included in the tax amount.”**

4. The application was canvassed by way of written submissions. I have considered the application, the grounds of opposition and the submissions of counsel for the respective parties.

5. The Advocate/client bill of costs herein was taxed on 17<sup>th</sup> May, 2016 at Kshs.118,410/=. The certificate of taxation was issued on 22<sup>nd</sup> June, 2016. A perusal of the court record has not revealed any objection to the taxation. Consequently pursuant to Section 51(2) of the Advocates Act, the certificate issued by the taxing officer is deemed to be final.

6. On the question of interest, the Advocates (Remuneration Orders) Rule (7) states as follows.

**“An advocate may charge interest at 14 per cent per annum on his disbursements and costs, whether by scale or otherwise, from expiration of one month from the delivery of the bill to the client, providing such claim for interest is raised before the amount of the bill has been paid or tendered in full.”**

7. The taxed costs therefore attract interest at 14% per annum with effect from 30 days after the service of the bill. Evidence of service must be availed (See example **Kithi & Co. Advocates v Menengai Downs Ltd Nbi Misc. Appl. No. 1069 of 2013** and **Kantai & Co. Advocates v Kenya Bus Services ltd [2006] eKLR.**)

8. In the instant case, interest is claimed from 2<sup>nd</sup> November, 2010. However, the affidavit of service herein sworn as 12<sup>th</sup> April, 2016 shows that the taxation notice and the bill of costs were served on 4<sup>th</sup> April, 2016. The interest of 14% per annum therefore ought to accrue from 4<sup>th</sup> April, 2016.

9. With the foregoing, the application is allowed save that the interest to apply with effect from 4<sup>th</sup> April, 2016. Order accordingly.

Dated, signed and delivered at Nairobi this 24<sup>th</sup> day of Nov, 2016

**B.THURANIRA JADEN**

**JUDGE**