



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MISC. APPL. NO. 590 OF 2014**

**OMULELE AND TOLLO ADVOCATES.....APPLICANT**

**VERSUS**

**MAGNUM PROPERTIES LIMITED.....RESPONDENT**

**ORDER ON DIRECTIONS**

1. On 28<sup>th</sup> September 2016, Mr. Omulele, learned advocate appearing for Omulele & Co. Advocates, the applicant herein, requested this court to issue directions. The learned advocate pointed out that two applications namely the motion dated 19.4.2016 and the other dated 17.5.2016 were argued together ON 19.5.2016 but this court only delivered its ruling on the one dated 17.5.2016 leaving the one dated 19.4.2016 untouched.

2. I have carefully perused the ruling delivered on 27.5.2016 and it is clear to me that this court stay the prosecution of the motion dated 19.4.2016 for 90 days. It is apparent that the motion dated 17.5.2016 was allowed. As of 28.9.2016, about 120 days had passed since the ruling was delivered. The stay orders had automatically lapsed hence it is now open to this court to make its decision on the motion dated 19.4.2016. I have also noted from the record on that Magnum Properties Ltd., the Respondent herein through the firm of Kadima & Co. Advocates has filed the motion dated 21.7.2016 seeking to challenge the order on taxed costs made on 19.4.2016. When served with the aforesaid motion, the firm of Omulele & Tollo Advocates filed grounds of opposition to resist the motion. It is apparent that the motion was filed pursuant to the ruling of this court delivered on 27.5.2016.

3. The motion basically seeks to challenge the decision of the taxing officer made on 19.4.2016 in which the Applicant's costs was taxed at Ksh.33,321,431/= . It is important to note that this court was emphatic in its ruling delivered on 27.5.2016 that the prosecution or ruling on the motion dated 19.4.2016 would be stayed for 90 days and pending the hearing and determination of the intended reference. In my humble view the motion dated 21.7.2016 can be regarded as of now as a reference. I think the appropriate directions of this court is that the motion dated 21.7.2016 having been filed pursuant to the ruling of 27.5.2016 the same should be fixed for interpartes hearing first before this court can deliver its ruling on the motion dated 19.4.2016. These directions will be in sync with the aforesaid ruling.

4. In the end, this court defers its ruling on the motion dated 19.4.2016 until the hearing and determination of the motion dated 21.7.2016. The aforesaid motion should be fixed for interpartes hearing on priority basis next term.

Dated, Signed and Delivered in open court this 20<sup>th</sup> day of December, 2016.

**J. K. SERGON**

**JUDGE**

In the presence of:

..... for the Applicant

..... for the Respondent