



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

MISC. CIVIL APPLICATION NO. 79 OF 2013

IN THE MATTER OF: THE ADVOCATES ACT CHAPTER 16 LAWS OF KENYA

AND

IN THE MATTER OF: ADVOCATE-CLIENT BILL OF COSTS

BETWEEN

MUNYITHYA, MUTUGI, UMARA & MUZNA COMPANY ADVOCATES

(FORMERLY JOSEPH MUNYITHYA & CO. ADVOCATES)

AND

**BEATRICE SILU MUTISO AND AMOS K. MUTISO
(Sued as Administrators of the Estate of GABRIEL MUTISO MAANDA)**

ARISING OUT OF

HC SUCCESSION CAUSE NO. 130 OF 2009 – MOMBASA

IN THE MATTER OF: THE ESTATE OF GABRIEL MUTISO MAANDA

MUNYITHYA, MUTUGI, UMARA & MUZNA COMPANY ADVOCATES

(Formerly Joseph Munyithya & Company Advocates) APPLICANT

V E R S U S

BEATRICE SILU MUTISO 1ST RESPONDENT

AMOS K. MUTISO 2ND RESPONDENT

RULING

1. The Notice of Motion dated 2nd October 2014 though served upon the Respondents was not opposed at

the hearing on 17th February 2015. The Respondents though served did not attend Court.

2. The Respondents were represented by the Applicant in the filing and prosecution of Petition for grant of Letters of Administration. It is from that relationship of Advocate and client that taxation by consent was done by the Taxing Master of this Court resulting in the issuance of a Certificate of Costs dated 1st August 2014 for the amount of Kshs. 3,500,000/-.

3. The Applicant has moved this Court by the Notice of Motion seeking judgment be entered for those taxed costs of Kshs. 3,500,000/- with interest at 14%. Applicant has moved this Court under the provisions of Section 51(2) of the Advocates Act, Cap 16 which provides:-

“The Certificate of the Taxing Officer by whom any bill has been taxed shall, unless it is set aside or altered by the Court, be final as to the amount of the costs covered thereby, and the Court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.”

There being no dispute on retainer I do find that the Applicant is entitled to the order sought.

4. There shall be judgment for the Applicant for Kshs. 3,500,000/- plus interest at 14% per annum with effect from 1st August 2014. The Applicant is also awarded costs of Notice of Motion dated 2nd October 2014.

It is so ordered.

DATED and DELIVERED at MOMBASA this 19TH day of MARCH, 2015.

MARY KASANGO

JUDGE