



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

MISC. CIVIL CAUSE NO. 232 OF 2013

IN THE MATTER OF AN ADVOCATE – CLIENT BILL OF COSTS

BETWEEN

OTIENO, RAGOT & CO. ADVOCATESAPPLICANT/ADVOCATE

AND

KENINDIA ASSURANCE COMPANY LIMITED RESPONDENT/CLIENT

Arising from

Nyando SRMCC No. 98A of 2013

THOMAS O. MADANJI PLAINTIFF

VERSUS

CHEMELIL SUGAR COMPANY LIMITED DEFENDANT

RULING

Before me is the Advocate/Applicant's Notice of Motion dated 14th July 2014 seeking orders that judgment be entered in terms of the Certificate of Costs dated 9th June 2014 together with interest at 14% per annum from 10th November 2013 until payment in full.

The Respondent/Client filed Grounds of Opposition dated 29th October 2014 to the effect that:-

- 1. That the application is bad in law, frivolous, vexatious and constitutes an abuse of the Court process.**
- 2. That the application is misplaced, incompetent, and goes against the mandatory provisions of the law.**
- 3. That the application lacks in merit and ought to be dismissed at the first instance with costs to the respondent having fallen short of the requirements of the Advocates Act.**

When parties appeared before Chemitei J. On 4th December 2014 they consented to canvassing this application by way of written submissions (see **HCMisc. Application No. 2010 of 2013**).However

despite reminders those of the Client/Respondent were never received. I have however fully considered those of the Advocate/Applicant as well as the grounds of opposition.

Section 51(2) of the Advocates Act provides as follows:-

"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."

In the instant case the retainer is not disputed and there is no reference in regard to the decision of the taxing officer. The grounds of opposition filed are, with due respect hollow and do not afford any opposition to this application.

Accordingly judgment is entered in terms of the Certificate of Costs – a sum of Kshs.204,746/10 with interest at 14% per annum from 29th June 2014 (30 days from the date of the ruling) until payment in full. The costs of this application be borne by the Client/Respondent. It is so ordered.

Signed, dated and pronounced at Kisumu this ..24th... day of ...September.... 2015

E. N. MAINA

JUDGE

In presence of:

Mr. Ragot for the Applicant

Miss for the Respondent

CC: Moses Okumu

MISS ARON: I pray for stay of execution for 30 days.

MR. RAGOT: No objection.

COURT: Stay for 30 days granted.

E. N. MAINA

JUDGE

24/9/015