

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CIVIL CASE NUMBER 256 OF 2002

RIFT VALLEY AGRICULTURAL CONTRACTORS LIMITED.....PLAINTIFF/RESPONDENT

VERSUS

KENYA WILDLIFE SERVICES.....DEFENDANT/APPLICANT

RULING

1. The application before this court is dated 20th May 2015. The applicant, Rift Valley Agricultural Contractors Limited was dissatisfied with the taxation of its party and party Bill of Costs dated 4th November 2014 and taxed on the 24th March 2015 in the sum of Kshs.148,270/- An objection was filed and reasons for the taxation on several items were sought from the taxing master.

2. As at 14th April 2015, no reasons had been given by the taxing master. A copy of the hand written ruling of the tax masters ruling delivered on the 24th March 2015 is attached to the application.

It is the applicant's submission that the award of costs was inordinately low, outrageous, capricious and seeks for an order of re-assessment on the objected items.

3. The Respondent/Defendant filed grounds of objections on 4th June 2015, that this court has Jurisdiction to re-tax the bill, that there would be no point in remitting the bill of costs for re-taxation back to another Deputy Registrar. The Respondent has filed written submissions on the application and specifically on the objected items, and proposed reasonable costs in its view of Kshs.733,216.00/=.

4. On the 8th June 2015 parties appeared before this court and proposed that this court do re-tax the Bill of Costs. The applicant indicated that it will rely on the affidavit to the preference and submissions before the Deputy Registrar dated 3rd June 2015.

The Respondent wishes to rely on the grounds of objection and submissions and authorities dated the 3rd June 2015.

5. The court has considered both counsel submissions and their wish to have the party and Party Bill of costs taxed afresh by this court. The court has jurisdiction to take several steps and make certain orders touching on the taxation of the party and party Bill of costs. See **Devshi Dhanji and Others -vs Kanji Naran Patel and sons – (No 2) (1976-80) I KLR.**

The court under its authority can remit the Bill of Costs for taxation before the Deputy Registrar or to take the taxation itself. I have noted that the bill of Costs hereof arises out of a long and protracted court case filed in the year 2002. Judgment was delivered on the 10th October, 2014 from which an appeal was filed vide **Nakuru High Court Civil Appeal No 212 of 2013** that was determined on the 10th October 2014. From the court records, there appears to have been an intention to appeal to the supreme court and to that end an application being **No. Sup. 19 of 2014 (UR13/14)** was filed. It is not indicated the fate of the said application. Notwithstanding outcome of the application for leave to appeal to the Supreme Court, parties desire to have the Reference against the bill of costs finalised.

6. The court has its court work basket full. This year's court diary is already closed with matters spilling to next year. It would be practically not possible to Re-tax the bill within a reasonable time. I find it more prudent to remit the party and Party Bill of Costs for re taxation by a different High Court Deputy Registrar at Nakuru, the result is, the application dated 20th May 2014 is allowed in terms of **Prayer Number 4**, that the taxing Master's Ruling delivered on the 24th March 2015 is set aside, and **Prayer Number 5**, that the Party and Party Bill of Costs dated 4th November 2014 is hereby remitted back for taxation before another Taxing master of the court, within the shortest time possible.

The costs of this application shall be costs in the cause.

Dated, signed and delivered in open court this 29th day of October 2015.

JANET MULWA

JUDGE