



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**MISC. CIVIL APPLICATION NO.155 OF 2012**

**WILFRED NYAUNDI KONOSI.....APPLICANT**

**VERSUS**

**ALEX OTUKE.....RESPONDENT**

**RULING**

1. The Notice of Motion is dated 27th July, 2012 and is brought under the provision of **Section 51(2)** of the **Advocates Act**
2. The Applicant is seeking the following orders *inter alia*:
  - i) Judgment be entered in favour of the Applicant against the Respondent in the sum of Kshs.193,659.50 being the sum certified to be due.
  - ii) The costs of this application be borne by the Respondent
3. The application is predicated on the grounds on the face of the Application and upon the Affidavit in support made by **WILFRED NYAUNDI KONOSI** and made on the 27th July, 2012.
4. The Applicant depones that he acted for the Respondent in Nakuru RMCC No.270 of 2011 upto a point where he withdrew from acting and another firm of Advocates namely Gordon Ogola & Associates took over the matter.
5. The Bill of Costs was taxed and a Certificate of Costs issued in the sum of Kshs.193,659.50.
6. There is no Replying Affidavit filed by the Respondent to rebut the above Certificate of Costs nor is the retainer, challenged.
7. This application proceeded for hearing in the absence of the Respondent despite service of a hearing notice being served upon the Respondent's Advocates and the Respondent personally.
8. The provisions of **Section 51(2)** of the **Advocates Act** read 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.”**
9. The application is unopposed and there has been no attempt by the Respondent to vary or set aside the Certificate of Costs and therefore this court takes the liberty to make final orders.
10. The application is hereby allowed and judgment is entered in favour of the Applicant on the taxed costs of Kshs.193,659.50 together with costs of the application. The application was silent on the

issue of interest and therefore the same will not be granted by this court.

It is so ordered.

**Dated, Signed and Delivered at Nakuru this 31st day of July, 2014**

**A. MSHILA**

**JUDGE**