

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

MISC. 174 OF 2012

OTIENO YOGO & CO. ADVOCATES.....ADVOCATE/APPLICANT

VERSUS

EQUIPTY BANK LTD.....CLIENT/RESPONDENT

RULING

The Notice of Motion by the applicant dated 26-3-2013 prays for orders that:

This court be pleased to convert the certificate of costs issued by this court on 11-3-2013 into a decree and judgment be entered for the Advocate/Applicant in the sum of Kshs. 279,798.02/= in terms of the certificate of taxation with costs and interest at 14% from 15th August, 2012 till payment in full.

The application is supported by the annexed affidavit of Patrick Otieno Advocate. From the said affidavit it is apparent that costs were taxed and a certificate thereof issued on 28-2-2013. The same were taxed inter partes.

The procedure provided under section 51 of th Advocates Act provides that a decree thereof ought to be obtained once the costs have been taxed.

The respondent has argued through the grounds of opposition filed on 23-7-2013 that there is a pending application dated 28-3-2013 seeking to set aside the decision of the Deputy Registrar and have the bill re-taxed or the same be referred to arbitration.

Respectfully, this is double speak. The bill was taxed inter partes and if the respondent was interested in pursuing its application then it ought to have fixed the same for hearing. Further, there is nothing to show that the respondent has actually taken any steps to prosecute its application.

However, I have perused the application dated 19-10-2012 vide Misc. No. 173 of 2012. The said application has been allowed. I shall for the interest of justice and fair play hold the matter herein in abeyance pending the arbitration proceedings.

This order shall apply to file No. 210 and 211 of 2012. Costs shall be in the cause.

Dated, signed and delivered at Kisumu this 26th day of November, 2013.

**H.K.
JUDGE**

CHEMITEI

In the presence of:

.....for applicant

.....for respondent

