



REPUBLIC OF KENYA

IN THE HIGH COURT

AT MACHAKOS

Civil Case 286 of 2010

GURMAKH SINGH KEHAR

SINGH.....PLAINTIFF

VERSUS

EUNICE MUENI

KYENGO.....DEFENDANT

RULING

1. The Application before the Court is the Notice of Motion dated **28/09/2011** (“*Application*”) brought by the Plaintiff in the suit herein under **Section 51(2)** of the **Advocates Act section 3A** of the **Civil Procedure Act** and, for good measure, all other enabling provisions of the law.

2. The Application seeks three prayers:

*a. That the Honourable Court be pleased to enter judgment for Kshs. 133,797/= only against the Respondent in terms of the Certificate of Taxation issued by this Honourable Court on 22/07/2011;*

*b. That the Honourable Court be pleased to award interest at 14% p.a. from the date of filing the Bill of Costs till payment in full.*

*c. That the Respondent be condemned to pay the costs of this Application and the costs of the taxation cause.*

3. The Application is supported by the Affidavit of **James Ogoti Agata**, the Advocate who has been conducting this matter on behalf of **Onyancha, Nyakundi & Company Advocates** who were acting for the Plaintiff.

4. I have satisfied myself that the Respondent was served with the Application and the hearing notice. Indeed, when the matter came before me on **24/11/2011**, I directed that the Applicant’s counsel does serve again and file a legally-sufficient affidavit of service. This was done and the matter came before me again on **03/02/2012**. On that day, again, the Respondent was not present. The affidavit of service on record details how she was served. I accept it. I have equally satisfied myself that the Bill of Costs was taxed regularly and after due notice and service to the Respondent who also elected not to appear before the Taxing Officer.

5. After perusing the Application dated **28/09/2011**, the Supporting Affidavit of **James Ogoti Agata**, the affidavit of service sworn by **Haron Nyakenya Moroga**, and the Certificate of Taxation dated **28/09/2011**, and after hearing **Mr. Obare** who was holding brief for **Mr. Onyancha** for the Applicant, I am satisfied that the Certificate of Taxation was regularly obtained. I am also satisfied that it has not been set aside or challenged. In the circumstances, I will allow the Application dated 28/09/2011 in its entirety. The final orders will be as follows:

- a. Judgment be and is hereby entered for **Kshs. 133,797/=** only against the Respondent in terms of the Certificate of Taxation issued by this Honourable Court on 22/07/2011;*
- b. Interest at the rate of **14% p.a.** from the date of filing the Bill of Costs till payment in full is awarded to the Applicant;*
- c. The Respondent shall pay the costs of this Application and the costs of the taxation cause.*

**DATED, SIGNED and DELIVERED at MACHAKOS this day 15TH day of FEBRUARY 2012.**

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**J.M. NGUGI**  
**JUDGE**