

REPUBLIC OF KENYA
IN THE HIGH COURT
AT NAIROBI
MILIMANI LAW COURTS
Judicial Review 248 of 2009

DAVID NJUGUNA KIBEAPPLICANT

VERSUS

GLADYS WANJIKU GICHUHI1ST RESPONDENT

CHIEF MAGISTRATE, THIKA LAW COURTS.....2ND RESPONDENT

RULING

The applicant is aggrieved by the taxation of the Deputy Registrar dated 9th July 2010. The applicant is aggrieved because according to the said taxation it is stated he did not oppose the bill of costs or ever appeared for taxation upon service. That statement of facts is not correct and the applicant relies on the court record. The applicant was represented in the course of the proceedings in the taxation of bill and opposed the bill of costs. It is clear the applicant filed in court a response to the taxation on 11th June 2010 which was served and received by the counsel for the respondent on 11th June 2011. The applicant contends that there is apparent error on the face of the record and prays that this court allows his application dated 23rd July 2010 and set aside the ruling dated 9th July 2011. The applicant also wants the bill of costs be remitted back to the DR for taxation for him or her to take into account the applicant's reply. In the applicant's response to the respondent's bill of costs, he proposes that the bill be taxed at Kshs.72,586/=. However, the trial court taxed the bill at Kshs.144,351/=.

It is clear the 1st respondent Gladys Wanjiku filed a Notice of Motion dated 24th January 2011 seeking orders that judgment be entered against the 1st respondent in the sum of Kshs.144,351/= being the amount taxed by consent on 9th July 2010. It is the contention of the applicant that there is no amount taxed by consent as sought by Gladys Wanjiku.

I have considered both applications and it is my view that there is no need to remit the matter back to the DR to carry out his function of taxing the bill *interpartes*. There is ample evidence to show that the taxing master did not take into consideration the response filed on behalf of the applicant in the application dated 23rd July 2010. It is also clear that the successful party in that application has filed an application dated 24th January 2011 seeking orders that judgment be entered against the respondent. I have taken into consideration all the documents filed by the parties herein and it is my determination that the bill be taxed at Kshs.90,000/= which I enter judgment for Gladys Wanjiku Gichuhi. Each party shall bear his/her own costs in both applications which I have determined. Orders accordingly.

Dated, signed and delivered at Nairobi this 14th day of February 2012.

M. WARSAME
JUDGE