



REPUBLIC OF KENYA

IN THE HIGH COURT

AT NAKURU

MISCELLANEOUS CIVIL APPLICATION 3 OF 2011

ISEME KAMAU & MAEMA ADVOCATES.....APPLICANT

VERSUS

CONCORD INSURANCE COMPANY LTD.....RESPONDENT

RULING

By the Notice of Motion dated 13/12/2011 brought pursuant to **Section 51(2)** of the **Advocates Act Cap 16 Laws of Kenya** and **Order 51 Rule 1**, Iseme Kamau, Maema Advocates seek an order that judgment be entered herein in favour of the applicant against Concord Insurance Company Ltd, the respondent, in the sum of Kshs.58,753.40 as set out in the certificate of taxation issued by the taxing officer of this court on 24/8/2011 and that the applicant be at liberty to execute against the respondent.

The grounds upon which the application is premised are that the applicant was instructed to pursue recovery of Kshs.224,945/- in a material damage recovery claim, the applicant filed PMCC No. 2/2003 and the respondent failed to settle the applicant's fees. The applicant lodged a bill of costs in Nakuru HCMISC. 3/2011, it was taxed on 28/7/2011 at Kshs.58,743.40 as a result of which a certificate of taxation (KWA) was issued. It is the applicant's contention that in accordance with **Section 51(2)** of the **Advocates Act**, the certificate is final and has not been challenged. Ms Karen Mate an advocate from the firm of Iseme Kamau & Co. Advocates also deposed that the retainer between the applicant and respondent is not contested.

The respondents were served with this application on 3/2/2012. Service was duly acknowledged by the respondent stamping on the application that was served. Vihaki Armstone, swore an affidavit of service dated 7/5/2012. The respondent did not file any reply nor was there any appearance at the hearing of the application. The same is not challenged. For these reasons, I hereby enter judgment for the applicant in terms of prayers 1 and 2 of the Notice of Motion as prayed. The applicant will also have costs of the application.

DATED and DELIVERED this 14th day of May, 2012.

R.P.V. WENDOH
JUDGE

PRESENT:

Ms Maija holding brief for Ms Mate for the applicant.

N/A for the respondent.
Kennedy – Court Clerk.