



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI MILIMANI COMMERCIAL COURTS (COMMERCIAL AND TAX DIVISION)

MISC APPLICATION NO. 770 OF 2010

ACHOLA JAOKO & CO ADVOCATES.....APPLICANT

VERSUS

WYCLIFFE MUNAYI.....RESPONDENT

RULING

By this application, the applicants pray for an order that judgment be entered against the respondent in the sum of Kshs 47,341.90 being the amount of costs taxed in this matter. They also pray for payment of further court fees and costs of the application.

The application is brought by a Notice of Motion dated 22nd February, 2011, and is supported by the annexed affidavit of Caleb Odhiambo Jaoko, Advocate, and is based on the grounds that the respondent instructed the applicant to file and undertake to conduct of **CMCCC NO. 3456 OF 2009** between **Peter Wanjalo Mujosi v Wycliffe Munayi**. The respondent showed a lack of interest in settling the Advocate's fee and this led to the filing of the Advocate - Client bill of costs. On 7th February, 2011, the said Bill was taxed at Kshs 47,341.90, and a copy thereof is attached to the application. In spite of the same having been served on the respondent, he has failed and/or neglected to effect the requisite payment.

Although the respondent was duly served on 3rd March, 2011, he did not file a replying affidavit or any grounds of opposition. Furthermore, in spite of having been served in sufficient time to attend court, he did not do so. In effect, this application is therefore unopposed.

It is not disputed that the applicants' Bill of Costs was taxed on 7th February, 2011, in the sum of Kshs 47, 341.90, and a certificate of taxation duly issued to that effect. The said certificate has neither been altered nor set aside. There is also no dispute as to the retainer, and the respondent is therefore justly indebted to the applicant.

In the circumstances, I find that the applicant is entitled to judgment as prayed, and I accordingly enter judgment as follows –

(1) Judgment be and hereby entered for the applicants against the respondent in the sum of Kshs 47,341.90 and court fees amounting to Kshs 1,235.00 in addition thereto.

(2) The respondent will also bear the costs of this application

Orders accordingly.

DATED and **DELIVERED** at **NAIROBI** this 12th day of April, 2011

L NJAGI

JUDGE