REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MISCELLANEOUS APPLICATION NO. 616 OF 2006

J M NJENGA & CO. ADVOCATES ……APPLICANT/ADVOCATE

VERSUS

KENYA TEA DEVELOPMENT AGENCY LIMITED ……..……RESPONDENT/CLIENT

RULING

This Notice of Motion dated 30th September, 2010 has a long history.

It is filed under paragraph 11 (1) & (2) of The Advocates (Remuneration) Order (Cap 16) Laws of Kenya.

It seeks three orders name:-

(1)To set aside the Taxing Master's decision dated 21st May, 2010 allowing shs.50,000/= as basic instruction fees in respect of Advocate/Client Bill dated 6th August, 2006.

(2)To set aside the Taxing Master's decision refusing to award interest on the taxed amount, and

(3)Due to the three previous taxation by three different Taxing Masters, the court to tax the Bill of Costs particularly in respect of the above two items.

The costs on this motion is also prayed for.

The application is based on the grounds set forth thereon, supporting affidavit of the Advocate, Mr. Jeremy Njenga, sworn on 30th September, 2011.
The application is opposed and replying affidavit is sworn by the Respondent's Advocate, Peter Mwaniki Kiura, sworn on 15th October 2010.

Both counsel filed written submissions including rejoinder by the Applicant which were orally highlighted.

It is absolutely necessary to give a brief background of several proceedings and Rulings made before this application is filed.

The suit giving rise to the proceedings was filed by way of Originating Summons on 7th October, 1993. It was amended and lastly re-amended on 14th May, 2004. The Advocate/Applicant came on record

representing the Plaintiff, The Kenya Tea Development Authority, in the year 2002 replacing the previous Advocate.

The suit was heard by Hon. Ojwang J. and in his Judgment dated 19th May, 2006, he allowed the Plaintiff's claim. In his judgment, the Hon. Judge has stated that the Plaintiff purchased the suit land (about 19 acres in measurement) in 1980 for the purchase price of Kshs.396,000/= and there was demand by the Defendants for renegotiation. The issue, whether the Plaintiff's case should succeed on the basis of the claim of Adverse Possession or Agreement on the sale was also canvassed and determined in the judgment.

As per the Plaintiff's evidence, the Judgment mentions that the value of the suit land as shown in the audited accounts is shs.300,000,000/=.

After the judgment, the Party and Party Bill of Costs was filed. Item on Instruction Fees mentioned the value of the subject matter as shs.300,000,000/= and the amount claimed for instruction fees thereon was Kshs.4,540,000/=. The grand total of the said Bill of Costs was Kshs.15,780,267.50 and finally the Bill of Costs was taxed at Kshs.15,008,267.50. There is no challenge to this Certificate of Taxation except by an application which is still pending.

Thereafter, the Advocate/Applicant filed their Advocate/Client's Bill of Costs adopting the taxed amount in all respect from the Party and Party Bill of Costs so far as item Nos. 1 – 5 thereof is concerned.

It is not in dispute that items 6 – 21 of the Said Bill has not been contested by the Respondent Client.

The said Bill of Costs was thereafter taxed by Hon. Mwiruri Senior Deputy Registrar vide his Ruling of 12th April, 2007, and he allowed the same in the sum of Kshs.23,279,871/=.

This Ruling was based on the amount of Kshs.15,008,267/50 allowed in the Party and Party Bill of Costs.

The Respondent being dissatisfied by the said Ruling filed a reference which was heard by Hon. Waweru J. who delivered his Ruling on 25th April, 2008. He set aside the taxation and remitted back the same for taxation afresh in accordance with the directions in the said Ruling.

Hon. Mr. Muya, the Taxing Master, this time delivered his ruling on 5th August, 2008 and taxed the Bill at Kshs.9,175,715 plus VAT at 16 percent and interest at 9% p.a on the disbursements and costs. It is averred that before the said Taxing Master, the Respondent through its counsel had admitted that Hon. Waweru J. had set the basic Instruction Fees at Kshs.4,450,000/= and admitted the said sum as due, exclusive of VAT and interest.

The Taxing Master based his ruling on the above admission. But in spite of that admission, the Respondent once again filed the reference against the said Ruling which came before Hon. Nambuye J., who heard the reference and vide her Ruling dated 11th March, 2009 directed a fresh taxation of the disputed items based on her guidelines.

The guidelines directed by Hon. Nambuye J. were as under:-

i) "Comply with Hon. Mr. Justice Waweru's guidelines and directions in his ruling of 25/4/2008 by receiving representation on the item on the instructions fees and then proceed to make pronouncements on the same.
ii) Establish exactly when the Bill of costs or demand for the fees was served on the Client.
iii) Establish exactly when the interest was demanded by the Advocate from the Client, if any was demanded.

The Bill of Costs then was taxed by Hon. Mrs. Ougo who vide her Ruling delivered on 21st May, 2010 taxed the Bill at Kshs.199,315.84/= all inclusive. While arriving at the said figure, she reassessed the

value of subject matter and disallowed the claim of interest.

This time, it is the Advocate/Applicant who has filed this reference before the court.

The two issues are raised for determination, specifically as regards the Instruction Fees as itemized in items 1 to 5 of the Bill of Costs and interest thereon as per Rule 7 of the Advocates (Remuneration) Order (referred to as 'ARO'). The Instruction Fees as between Advocate and Client is governed by Schedule VI Parts A & B of ARO which stipulates:-

(A)

That value exceeds Sh.	**But does not exceed Shs.**	**Shs.**
	500,000	**35,000**
500,000	**750,000**	**45,000**
750,000	**1,000,000**	**55,000**

Over 1,000,000 fee as for 1,000,000 plus an additional 1.5 per cent

(B)

As between advocate and client the minimum fee shall be –

(a) The fees prescribed in A above, increased by one-half; or

(b)The fees ordered by the court, increased by one-half; or

(c) The fees agreed by the parties under paragraph 57 of this Order; increased by one-half;

As the case may be, such increase to include all proper attendances on the client and the necessary correspondences

I have carefully considered the submissions made and authorities cited by both counsel.

In the present case, the Party and Party Bill of Costs has already been decided and Certificate of Costs has been issued. I have no record that the said Certificate of Taxation had been varied. Thus the Respondent/Client in this case has been allowed the Instruction Fees of Kshs.4,540,000/= on the basis of the value of Kshs.300,000,000/= of the subject matter. The Respondent/Client has opposed this Advocate/Client Bill challenging the value of the suit premises, as well as the complexity of the matter.

This matter had passed through the hands of two Hon. Judges of this court.

I shall also at this stage note without hesitation that the objections from the Client/Respondent have been taken only in respect of Instruction Fees.

Hon. Waweru J. who was considering the first ruling of Taxing Master, who seemingly had failed to take into consideration each item on the Party to Party Bill of Costs and has simply increased by half the amount in Party and Party Bill of Costs. That was the reason the Respondent took the following grounds in the reference.

(a) That the costs as taxed in the Party and Party Bill included interest specifically awarded to the Plaintiff in the suit (the Applicant herein) and therefore not due to the Respondent.

(b)That those costs also included fees for services rendered by a previous firm of Advocates acting for the Applicant in the suit from 1993 to 14th May, 2002 before the Respondent took over conduct of the suit for the Applicant, and therefore also not due to the Respondent.

In the background of these facts, Hon. Waweru J. found in my view correctly and I quote:-

"Indeed the formula for taxing an Advocate and Client Bill of costs for work done in the High Court is provided for in Part B of Schedule VI of the Order. But the phrase "fees prescribed in A above, increased by one-half" in Part B of Schedule VI, does not necessarily mean the fees as taxed in a Party and Party Bill"

"In the present case, the taxing officer did not look at each item in the Party and Party Bill in order to know what was properly due to the Respondent. Had he done so, he would have noted that the instruction fee awarded in the Party and Party Bill of costs was kshs.4,540,000/=. He would then have increased this sum by one-half in order to arrive at the correct award for instruction fee for the Respondent. This failure amounted to a grave misdirection and error of principle that resulted in an award to the Respondent that is wholly erroneous and excessive."
"In the present case, as already seen, objection has been taken only to the instruction fee. The amount claimed for instruction fee in the Party and Party Bill of costs dated 24th May, 2006 was Kshs.4,540,000/00. That was the amount allowed. *(emphasis mine)*

With the above observations, the Bill of Costs was remitted back for fresh Taxation with was heard and determined by Hon. Mr. Muya which was taxed at Kshs.9,175,713/= exclusive of VAT and interest as is already specified.

Hon. Nambuye J. while hearing the reference from the said Ruling, did mention that the observations of Hon. Waweru J. as regards Kshs.4,540,000/= does not reveal on the face of the Ruling where he plucked that figure. That observation may be looked at, along with the Rulings of Hon. Waweru J. which shows that the said sum was taken from the Party and Party Bill of Costs.

Moreover, it is also interesting to note that on page 12 of her judgment, the Hon. Nambuye J. has quoted the representation by Mr. Kiura, the learned counsel for the Respondent, namely, ***"for the issue of Instruction Fees, the judge did rule on it at page 5 of the reference. The amount provided for that item has been decided and so is the element of getting up fees!!"***

I thus have to consider the two rulings and the directions given therein vis-à-vis the ruling of Hon. Ougo, the Senior Principal Deputy Registrar, delivered on 21st May, 2010, which is under challenge.

It is a foreclosed issue in this matter that the Party and Party Bill of Costs is determined and the Instruction Fees was calculated and allowed at Kshs.4,540,000/= considering the value of subject matter as at Kshs.300,000,000/=.

It is also very much indisputable that the present firm of Advocates came on record in this matter as from 2002. The Advocates did and do concede that they should not be asking for any work which has been done by the previous Advocate. Because of this fact, in my view, Hon. Waweru J. did observe as under:-

"The Taxing Master is duty bound to look at each item in the Party and Party Bill of costs in order to arrive at what is properly due to the Advocate. This is especially important where more than one Advocate has acted for the Party in the matter. Whereas in a Party and Party taxation it will not matter how many Advocates may have acted for the Client in the matter, that fact will be of importance in an Advocate and Client Bill of Costs. This is because an Advocate can charge only for the work he had done. He cannot charge for the work done by a previous Advocate in the matter."

"By having said that, a new Advocate coming onto a matter somewhere in the middle of the proceedings in the High Court will be entitled to the full instruction fee prescribed in Part A of Schedule VI of the Order subject to the Taxing Officer's discretion to increase or (unless otherwise provided) reduce it and as augmented by the formula in Part B (increase by one half). A Client who changes Advocates in the High Court therefore can expect to pay the full instruction fee as many times as he pleases to change Advocates notwithstanding that he can recover only one instruction fee in a Party and Party Taxation unless there is a certificate for more than one counsel."

In my view, the reasoning as aforesaid are so sound that I shall have to adopt the same. That was the reason Hon. Waweru J. remitted the Bill of costs for fresh taxation and hence the revised taxation as regards the other items except item for instruction fees, which was, in my view from what is observed hereinbefore, was conceded even by the learned counsel of the Respondent.

In my view, the directions by Hon. Nambuye J. as to receive representation on the Instruction Fees could be seen to have been made on the suppositions that Hon. Waweru J. indicated the sum of Instruction fees as awarded in Party and Party Bill of Costs but left it to the discretion of the Taxing Master to increase or reduce the same, of course, if supported by judicious reasons and as per law.

I have briefly placed hereinbefore the facts and circumstances of this matter since the taxation of the Party and Party Bill of Costs and filing of the Advocate/Client Bill of Costs dated 6th August, 2006.

Considering the facts and circumstances as observed hereinbefore, I have to determine:-

Did Hon. Mrs. Ougo misdirected herself when:-

(1)She based her findings as to the selection of the year on which the Instruction Fees for the Advocate/Applicant herein could be based?

(2)She took the value of the subject matter from the Agreement of Sale of 1980.

(3)She ignored the taxation of Party and Party Bill of Costs and

(4)Whether she followed the directions given vide two Rulings of the Judge.

Mr. Njenga, the learned counsel for the Advocates, agreed that this court is not bound to follow the observations made earlier in this matter and Rulings made are persuasive in nature and this court shall have to arrive at its own interpretation of Schedule VI Part B of ARO as well as the formula of determining the Instruction fees as per Schedule VI Part A.

It was stressed that the Party and Party Bill of Costs was taxed appropriately on justified grounds. The subject matter was valued at Kshs.300,000,000/= and which is the amount accepted in the judgment and in any event, it is the one which is received by the Respondent herein as its own costs. Hon. Waweru J. in pursuance to his directions as to how the Bill of Costs herein should be taxed, i.e. taking the Party and Party Bill of Costs item by item and then increasing the same by ½ as per Schedule VI B, has stated very clearly the formula of calculating the instruction fees i.e. Kshs.4,540,000/= increased by one half. The observation specifically made was cited, namely:-

"The Taxing Master is duty bound to look at each item in the Party and Party Bill of Costs to arrive at what is properly due to the Advocate".
I may pause here and state that there was a specific direction to look at each item of Party and Party Bill of Costs so that the Advocate does get what is due to him and in my view that is the proper and fair formula to arrive at the Advocate's due charges in view of the involvement of services by the previous Advocate. The items in the Party and Party Bill of Costs not due to him has to be ignored by the Taxing Master.

However, it was stressed that what is due to the Advocate and is taxed in Party and Party Bill of Costs of necessity be awarded to the Advocate like the taxation of Instruction fees.

The judgment in ***High Court Miscellaneous Application No. 21 of 2003 D. Njogu and Co. Advocates – vs- Kenya National Capital Authority*** was relied upon wherein Hon. Ochieng J. has found:-

a) "Advocate/Client costs can never be less than the Party and Party Costs. I say so because, it has been expressly provided that the minimum fee shall be either prescribed fees, the fee ordered by the court or the fee agreed between the parties, increased by one half. Furthermore, the rule

expressly state that the increment is to include all proper attendances.

d) That though Taxing officers do have the discretion to either decrease or increase the instruction fees awarded in a Party and Party Bill of Costs, once he has exercised that discretion by fixing the Party and Party Bill of Costs, the Advocate/Client costs cannot be taxed at a lesser sum".

It was then contended that the Hon. Taxing Master in total disregard of the directions from both the Rulings embarked upon to decide the value on her own by discarding the evidence, pleadings before the court and Judgment of the court. The issue was the ownership of the land, as it was with the development, and it cannot be ignored that the value of Kshs.396,000/= as at 1980 was not even in contemplation of the Defendants as they were seeking increased value of the land from the Respondent/Client herein. Yet she without any justification set the value of the subject matter at Kshs.396,000/=. It cannot be ignored that if the Respondent had lost his case, the whole land with development would be taken by the Defendants in the case.

In total disregard of the Party and Party Bill of Costs (taxed), she gave a meager sum of Kshs.50,000/= in respect of Instruction fees. She thus, it was emphasized, misdirected both in fact and law.

It was emphasized with support of authorities that the land and the house are one unit and that structures erected on the land invariable become part of the land (see ***Elwes –vs- Brigg Gas Co.*** (2886) 33 ch. D 562 – Chitty J. Observed)
"This principle is an absolute rule of law, not depending on intention for instance, if a man digs in the land of another, and permanently fixes in the soil stones or bricks, or the like, as the foundation of a house, then stones or building become the property of the owner of the soil, whatever may have been the intention of the person who so placed them there and even against his declared intention that they should remain his property."

Mr. Njenga also raised issue on the finding of the Taxing Master that the suit was not complex without any basis shown in her ruling. The matter was of grave importance to the Respondent and the correspondence to that effect was produced before the court. (Document J.). The pleadings, proceedings and Judgment in the matter would bear support to the complexity of the matter it was submitted.

It is contended in the response made by the Respondent that the consent as well as the Party and Party Bill of Cost is challenged. However, Mr. Njenga submitted that, over and above the contention that it was so filed at the instigation of the Respondent, the said application is not as yet heard and determined and the certificate of taxation is in place and is effective.

As regards the application of Advocates Remuneration Order (1993), Mr. Njenga simply relied upon the trite law that any action taken after the repeal of the 1993 ARO should be taxed under 1997. He stressed that the Applicant came on record in 2002 and 1997 Advocate Remuneration Order was effective and has to be applied.

Mr. Kiura, the learned counsel for the Respondent, in opposition to the Motion, submitted that Hon. Waweru J. did not make the final pronouncement on the amount for instruction fees payable to the Advocate and that Hon. Nambuye then directed to tax the instruction fees afresh.

As regards the ruling of Mrs. Ougo, the Taxing Master, it was submitted that she exercised her discretion appropriately. The submissions as to what was included in the valuation of Kshs.300,000,000/= were moveables was made to suggest that the value includes fixtures but, in my view, I may reject this submissions as being made in submissions without any substantiation. Moreover, it is not denied that there is a Makambola Tea Factory existing on the land, the subject matter of the suit.

It was, however, rightly submitted that only item for retaxation was the instruction fees. I also note that there was no challenge by Mr. Kiuri as to his representation before Hon. Nambuye J. that Hon. Waweru J. had found the amount of instruction fees at Kshs.4,540,000/=.

I do note with approval to the principle of law that, as regards the issue of Taxation, when there is an error in principle the court shall interfere with order of Taxing Master and that as far as the issue of quantum is concerned, the court will intervene only in exceptional cases and that too when the cost is either so high or so low as to amount to an injustice to one Party.

I have considered all these facts and submissions from both sides. I may not reiterate the same except to reiterate that the Party and Party Bill of Costs has been taxed and till to-date, it is not reviewed or varied since 13th April, 2007. It is also not in dispute that it was the present firm of Advocates which represented the Respondent and obtained the Judgment in its favour.

As regards the formula to be adopted in arriving at what is due to the Advocate, I shall totally agree with Hon. Waweru J. when he observed that the Taxing officer is duty bound to look at each item in the Party and Party Costs in order to arrive at what is properly due to the Advocate. He made those observations looking at the unified approach taken by Hon. Muiruri, the Taxing Master. It is also pertinent to note that the said Taxing Master failed to check the actual items in Party and Party Bill of Costs which the present Applicant/Advocate should have been awarded. The fact of a previous Advocate had also to be considered. I pause here and note item Nos. 1 to 5 of the Bill of Costs herein and find that the total sum of Kshs.15,008,267.50 taxed was taken wholly by the Taxing Master while taxing the Advocate/Client's Bill of Costs. After observing the said fact and considering the facts of the matter, Hon. Waweru J. then specifically found that, if the Taxing Master had done so he would have noted the instruction fee of Kshs.4,540,000 in the Party and Party Bill of Costs and would have then arrived at the correct award for instruction fees with increase of one half.

I have carefully perused the said Ruling and find that the above observations, even if it was not the finding by the court, are as per law, justice and fairness. It shall be unfair to the Advocate to be awarded lesser sum than what is taxed in a Party and Party Bill of Costs. I may, however, see that the said instruction fees also included what could have been a part of work done by the previous Advocate since 1993, till the present firm of Advocates came on the scene. Could that be the reason for Hon. Nambuye J. to give directions as regards instruction fees in her ruling? I would rather take this as the reason for so doing, as I fail to decipher any other plausible reason.

Be that as it may be, in my considered view, I am unable to find any support to the Ruling made by Hon. Mrs. Ougo, when she embarked upon changing the value of the subject matter shown and taken while taxing the Party and Party Bill of Costs. She went beyond the guidelines and directions made both by Hon. Waweru J. and Hon. Nambuye J. and also departed from the principle of taxing Advocate/Client Bill after Party and Party Bill of Costs is taxed. The Party and Party Bill of Costs after Certificate of Costs is an order of the court as regards the Instruction fees and becomes an order of the court as stipulated in Schedule V Part B.

I am urged by the Applicant to tax the Instruction Fees as well as other items on the Party and Party Costs when the Respondent has opposed the same in respect of my involvement in taxing other items except the Instruction fees, it shall be appropriate for me to give my determination on the Instruction fees only.

I shall find that so far as the Bill of Cost on hand is concerned, the Schedule VI of 1997 Advocate Remuneration Order shall apply which provides Kshs.55,000/= upto shs.1million in respect of Party to Party Costs. As the value of the subject – matter is now found to be 300,000,000/=, I would agree that 1.5 percent additional fees shall be applicable for the remainder Kshs.299,000,000/= which shall make the basic fees at Kshs.2,450,000.00.

However, I shall have to consider that in the proceedings before Hon. Waweru J. as well as before Hon. Nambuye J., both the counsel had represented with one stand that the amount for instruction fees is taxed at Kshs.4,540,000/=. Moreover, it is the amount which is allowed in Party and Party Bill of Costs.

There is no justifiable reason proffered by the Respondent to deviate from the position taken earlier by the Respondent in respect of the Instruction fees. The Respondent cannot be now permitted to renegate or relent from accepting the Instructions fees allowed in Party and Party Bill of Costs. I do further consider

that even this court cannot interfere in its award so as to decrease the same. The Hon. Taxing Master, as stated hereinbefore, has definitely misdirected herself and erred in making a fresh evaluation of the value of the subject matter and overlooking the Party and Party Bill of Costs which was taxed.

To avoid any procrastination in respect of determination of the Instruction fees, I shall assess the said sum as conceded by both counsel.

I shall not like to disturb or intervene in the quantum agreed since the Party and Party Cost. I shall adhere to the 1997 Advocate Remuneration Order Schedule VI Part A and B and shall not dwell on the complexity of the matter which is evident, but shall neither increase nor decrease any sum than the one taxed.

Thus the Instruction fees shall be taxed as under:-

(1)Instruction fees as per Schedule VI Part A
on the value of Kshs.300,000,000/= Kshs.4,540,000.00
(2)Add ½ of the above as per Schedule VI Part B. Kshs.2,270,000.00
TOTAL **Kshs.6,810,000.00**

I would not award any other costs to the Advocate/Applicant in respect of items 2 to 5 as the services stipulated were done by the previous Advocate.

As regards the other items in the Party and Party Bill of Costs, Mr. Kiuru has raised issue that the same be referred to the Taxing Master while Mr. Njenga stipulates that these items have never been objected before any of the Taxing Master and may be taken as undisputed. Considering the facts of this matter, I do note that the real issue was only the instruction fees.

Once again, I have looked at items 59 – 181 and I do note that the charges stipulated in items 59 – 181 do require some consideration and if so, it shall be better that the Item Nos. 59 to 147 and 149 – 181 be referred to any Hon. Deputy Registrar for taxation and I hereby direct that the same be referred as aforesaid.

I shall however, grant Kshs.4,060/= to the Advocate/Applicant as disbursements in respect of items 187 – 195.

The issue of getting up charges has to follow the taxation of the Instruction fees as per Schedule VI Part A. Rule 2 thereof stipulates that the same shall not be less than ? of the Instruction fees.

I have allowed Instruction fees in the sum of Kshs.4,540,000/= and thus the getting up fees shall be Kshs.1,513,300/= which shall be increased to ½ as per Schedule V Part B. thus I shall allow the sum of Kshs.2,269,950 under item No. 148.

With the above, what is remaining is the issue of Interest. Rule 7 of the Advocates Remuneration Order provides:-

"An Advocate may charge interest at a percent per annum on his disbursements and costs whether by scale or otherwise, from the expiration of one month from the delivery of his Bill to the Client providing such claim for interest is raised before the amount of the Bill has been paid or tendered in full."

I have enumerated earlier in this Ruling the guidelines of Hon. Nambuye J. as it concerns the issue of interest.

Hon. Mrs. Ougo has, on page 9 of her ruling, observed that the Advocate did address a letter to the Client informing that the Bill attracts an interest of 7% and that the Bill and demand was served on 30th August, 2006 and 29th September, 2006 respectively. She, however, declined to award interest on the ground that the Bill of Cost of 6th August, 2006 was not amended to include the interest and thus she declined to grant

the same.

With due respect to the Hon. Taxing Master, she did misdirect herself in interpreting the self explanatory wordings of Rule 7 of Advocate Remuneration Order which I have specified hereinbefore.

In my considered view, the last part of Rule 7 is very clear as to when the claim for interest has to be made. Moreover, provision for the time line from which the interest starts accruing also is very clearly provided therein. If so, the Bill of Costs cannot include the item for interest. The Rule only stipulates claim for interest which is covered under the demand letter which was served on 29th September, 2006. The interest thus starts accruing as from 29th October, 2006 as per Rule 7 of Advocate Remuneration Order and I hereby find so.

The issue of VAT is not disputed and/or disputable.

I will thus find that I shall award the following sums in respect for partial taxation of the Advocate/Client Bill of Costs dated 6th August, 2006.

(1)Instructions fees	
as per Schedule VI Part A and B	kshs.6,810,00.00
(2)Getting up fees	
As per Schedule VI Part A and B	kshs.2,269,950.00
(3)Disbursement	kshs. 4,060.00
TOTAL	**Kshs.9,084,010.00**

Plus VAT at 16% and interest at 7% as from 29th October, 2006 which was claimed in the demand.
I further direct that the Bill of Costs be referred to any Taxing Master to tax items Nos. 59 to 147 and 149 – 181.
I shall not award any costs.

Orders accordingly.

Dated, signed and **delivered** at Nairobi this 28th day of **June, 2011**

K. H. RAWAL

JUDGE

28.06.2011