



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI
MISC. APPLICATION NO. 1 OF 2011

JACKSON KIRAITHE.....APPLICANT

VERSUS

THOMAS KINOTI JOHN.....1ST RESPONDENT
ALEX MIRITI MANYARA.....2ND RESPONDENT
JOHN KIRIATU KIUNGA.....3RD RESPONDENT
JULIUS NKUNJA MAGAMBO.....4TH RESPONDENT
NJUGUNA KIMANI.....5TH RESPONDENT

RULING

Pursuant to the provisions of paragraph 11 (2) and (4) of the Advocates Remuneration Order, Jackson Kiraithe, the Applicant herein, applied for leave to lodge an objection to the decision of the taxing officer made on 7th May 2010 vide the Summons dated 17th January 2011. The Summons was served upon Thomas Kinoti, Alex Miriti Manyara, John Kiriatu Kiunga, Julius Nkunja Magambo and Njuguna Kimani being the 1st-5th Respondents herein. The 1st Respondent was the only party who filed grounds of opposition to oppose the Summons.

The Applicant has averred that he was never served with the Respondents' bill of costs dated 30th April 2010 and that is why the same was taxed *ex parte* and in his absence. He alleged that the bill was exaggerated beyond the figures stated by the Advocates Remuneration order. In the grounds of opposition, the 1st Respondent urged this Court to reject the application on the ground that the Applicant filed the application after an inordinate delay. Under paragraph 11 (4) of the Advocates Remuneration Act, this court is given unfettered discretion to enlarge time to object to decision of the Taxing officer. The Applicant has stated that he was not served with the Bill of costs nor notified of the taxation hence his failure to lodge an objection within the time prescribed under paragraph 11 (1) and (2). The Respondents do not deny those allegations and averments. The 1st Respondent's main contention is that the application was filed after an inordinate delay. In my mind, I think the delay may be long but it was because the Applicant was not served.

I am convinced I should exercise my discretion in favour of the Applicant. I hereby grant the Applicant leave of ten (10) days to object and lodge objection notice to the decision of the taxing officer made on 7th May 2010. Cost of the application to abide the outcome of the objection to the taxation proceedings.

Dated and delivered at Nyeri this 29th day of July 2011.

J. K. SERGON
JUDGE