



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**(MILIMANI COMMERCIAL COURTS)**  
**MISCELLANEOUS CAUSE NO. 207 OF 2010**

**MURIU MUNGAI & CO. ADVOCATES.....ADVOCATES/RESPONDENT**

**VERSUS**

**NEW KENYA CO-OP CREAMERIES LTD.....CLIENT/APPLICANT**

**RULING**

**Rule 11(1) of the Advocates (Remuneration) Order** states as follows:

**“Should any party object to the decision of the taxing officer, he may within fourteen days after the decision give notice in writing to the taxing officer of the items of taxation to which he objects.”**

On 4<sup>th</sup> November, 2010 Mr. K.L. Kandet, deputy registrar sitting as a taxing officer, taxed an advocate/client bill of costs and allowed a sum of **Kshs.311,400/=**. On 10<sup>th</sup> December, 2010 M/S J.M. Njenga & Company Advocates wrote to the deputy registrar and indicated that his client was dissatisfied with the amount allowed under item 1 of the bill. They requested for the reasons for allowing the same. The letter was delivered to this court’s civil registry on 16<sup>th</sup> December, 2010.

The advocates did not make any follow up on their letter until 23<sup>rd</sup> May, 2011 when they sent a reminder to the deputy registrar. The taxing officer responded to the said letter on 7<sup>th</sup> June, 2011.

On 6<sup>th</sup> July, 2010 the applicant/client filed an application by way of Chamber Summons brought under **rule 11(2) of the Advocates (Remuneration) Order** praying that the taxing officer’s ruling of 4<sup>th</sup> November, 2010 be set aside.

**Rule 11(2)** aforesaid states as follows:

**“The taxing officer shall forthwith record and forward to the objector the reasons for his decision on those items and the objector may within fourteen days from the receipt of the reasons apply to a judge by Chamber Summons, which shall be served on all the parties concerned, setting out the grounds of his objection.”**

It is clear that the application by the applicant/client was made in violation of the mandatory provisions of **rule 11(1) and (2)**. The letter dated 10<sup>th</sup> December, 2010 ought to have been written 14 days from 4<sup>th</sup>

November, 2010 when the ruling on the taxation was delivered. As a matter of fact, a notice ought to have been given but the applicant did not give any. Secondly, the application now under consideration was also filed out of time. It ought to have been filed within fourteen (14) days from the date of receipt of the reasons.

No explanation was given for the delay and no leave was sought to file the application out of time. The short of it is that the applicant's application clearly offends the provisions of **rule 11(1) and (2)** of the Advocates (Remuneration) Order and is therefore dismissed with costs to the respondent/advocate.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 29<sup>TH</sup> DAY OF NOVEMBER, 2011.**

**D. MUSINGA**  
**JUDGE**

**In the presence of:**

**Muriithi – Court Clerk**

**Mr. Gachie for Mr. Maundu for the Advocate**

**No appearance for the Client**