



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KISUMU**

**MISC. CIVIL APPL. NO. 323 OF 2010**

**IN THE MATTER OF THE ADVOCATES ACT**

**(CHAPTER 16 LAWS OF KENYA)**

**AND IN THE MATTER OF BEHAN & OKERO ADVOCATES**

BEHAN & OKERO, ADVOCATES ..... APPLICANTS

**VERSUS**

NATIONAL BANK OF KENYA LIMITED ..... RESPONDENTS

**RULING**

The application before me is a notice of motion dated 18<sup>th</sup> November, 2010 brought pursuant to Section 1A, B & 3A of the Civil Procedure Act and Sections 51 of the Advocates Act. It seeks:-

- a) That this Honourable court be pleased to consolidate the causes mentioned in the schedule hereto for the purposes of this application.
- b) That upon the said causes being consolidated judgment be entered for the sum certified as costs in the said matters and consequently decrees be issued in accordance thereto.
- c) That the respondent do pay the costs of this application.

The application was supported by the affidavit of **George Vincent Odunga** and on the grounds on the face of the application that; the parties in the said cause are the same and the said cause arose from legal services rendered by the applicant to the respondent, the applicant's costs have been taxed, the decision of the taxing officer have not been set aside.

The application was opposed by a replying affidavit of **Damaris Gitonga** dated 28<sup>th</sup> January, 2011 on the grounds that; the taxation is being opposed; consolidation is not known under the Advocates Remuneration Order and the Civil Procedure Rules are not applicable; such taxation arose from a distinct suits, each award can only be enforced distinctly, the parties have had various other taxation requiring parties to reconcile their accounts, application is premature as some taxations between the parties remain untaxed.

The court is being asked to exercise its inherent powers in deciding this application. The Advocates Remuneration Order is a complete code providing the way taxation and execution thereof is to be done.

It is clear that the parties have filed several taxations regarding outstanding payments in various matters between them. Some are concluded and some are yet to be concluded. There is reconciliation of accounts to be done obviously that notwithstanding and the fact that the taxations herein have not been challenged, it is my view that each taxation was distinct ought to be executed separately as they were taxed as such arising from distinct suits. The application dismissed with costs.

**DATED AND DELIVERED THIS 4<sup>TH</sup> DAY OF NOVEMBER, 2011.**

**ALI-ARONI**  
**JUDGE**

**In the presence of:**

----- for Applicant(s)

----- for Respondent(s)

