

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI COMMERCIAL COURTS)
MISCELLANEOUS CASE 688 OF 2009
NYAKUNDI & CO. ADVOCATES APPLICANT

VERSUS

LARI DAIRIES ALLIANCE LTD.RESPONDENT

RULING

1. The notice of motion dated 12th January 2010 is brought under the provisions of **section 51(2) of the Advocates Act**. The applicants seeks for an order that judgment be entered against the respondent for the sum of Ksh.378,000/- being the certified costs and Ksh.19,380/- being the further court fees. This application is premised on the grounds that the Advocates Bill of costs was taxed. The advocate had to pay additional court fees and the retainer is not disputed. The application is supported by the affidavit by **Mr. Kibagendi Assa M.Nyakundi** sworn 12th January 2010. It is further deposed that the retainer is not disputed.
2. This application is not opposed by the respondent. They did not file any replying affidavit or grounds of opposition. During the hearing Mr. Matheka who held brief for Mr. Njuguna for the client indicated that he had no instructions to oppose the application. This application is indicated that it has been brought under the provisions of section 51(2) of the Advocates Acts which provides as follows:

“The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the court, be final as to the amount of the costs covered thereby, and the court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.”

3. It is evident that a certificate of costs was issued by the deputy registrar certifying the costs payable to the applicant. That certificate of cost has not been set aside or altered. The issue of the retainer has not been challenged. Accordingly this application is allowed as prayed. The costs of Ksh.378,000/- being the certified costs and the sum of Ksh.19,380/- being further fees is hereby made the judgment of this court. The applicants shall also be entitled to the costs of this application with interest at court rates from the date of this ruling.

Ruling read and signed on 26th February 2010 at Nairobi

M.K. KOOME
JUDGE

