



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI COMMERCIAL & TAX DIVISION**  
**MISC CAUSE NO. 192 OF 2010**

**EVANS THIGA**  
**GATURU.....APPLICANT**

**VERSUS**

**APEX SECURITY**  
**LTD.....RESPONDENT**

**R U L I N G**

By an application by Notice of Motion dated 23<sup>rd</sup> December, 2010, the Applicant/Advocate applies for orders that judgment be entered in his favour against the Respondent for the sum of Kshs 95,535/- together with interest at 14% per annum from 11<sup>th</sup> April, 2010, until payment in full. He also prays for orders that the Respondent do pay the costs of this application and costs of the Cause.

The application is brought under Section 51(2) of the Advocates Act; Paragraph 7 of the Advocates (Remuneration) Rules; Section 3 of the Civil Procedure Act; Order L Rule 1 of the Civil Procedure Act; and all other enabling provisions of the law. It is supported by the annexed Affidavit of EVANS THIGA GATURU, Advocate, and is based on the grounds that –

1. **The Taxing Officer has issued a Certificate of Taxation herein in favour of the Applicant against the Respondent for the sum of Kshs 95,535/- in respect of Legal services rendered plus court fees of Kshs 4,865/-.**
2. **The Advocate sent his bills to the client on 11<sup>th</sup> March 2010 and is therefore entitled to charge interest at 14% per annum as per the Advocates (Remuneration) Order from 11<sup>th</sup> April, 2010, one month from the date the Applicant/Advocate tendered his bill to the client/Respondent until payment in full.**
3. **The Client/Respondent has been notified and supplied with the Certificate of Taxation for Kshs 90,670/- and receipts for further court fees incurred so far ever since 11.3.10 for Kshs 4,865/- altogether Kshs 95,535/-.**
4. **The Client/Respondent has not complied with the Advocate's/Applicant's demands for payment.**
5. **There were no outstanding issues left for determination herein, and it is therefore fair, just and equitable that this Application be granted in the interest of justice.**

When the application came for hearing on 24<sup>th</sup> January, 2011, Mr Makumi appeared for the Applicant but

the Respondent neither appeared in person nor was it represented. An affidavit of Service on record shows that the Respondent's Advocates, M/s Were & Oonge, were served on 10<sup>th</sup> January, 2011. The court was satisfied that they were served in sufficient time to enable them to attend court but they did not do so, and thereupon proceeded *ex parte*. Furthermore, the Respondent filed neither a replying affidavit nor grounds of opposition. In the circumstances, the application was unopposed.

The Applicant attached to the application a certificate of taxation dated 27<sup>th</sup> September, 2010, which shows that his bill of costs was taxed at Kshs 90,670/-. To that figure he added the sum of Kshs 4,865/- in respect of legal services rendered plus court fees, making a total of Kshs 95,535/-. The certificate of taxation in this matter has not been set aside or altered by the court, nor is the retainer disputed. In the event, the Applicant is entitled to judgment for the sum certified due together with costs.

I accordingly make the following orders –

- (i) **Judgment be and is hereby entered for the Applicant against the Respondent for the sum of Kshs 95,535/- together with interest at 14% per annum from 11<sup>th</sup> April, 2010, until payment in full.**
- (ii) **The Respondent will also bear the costs of this application.**

Orders accordingly.

**DATED and DELIVERED** at Nairobi this 4<sup>th</sup> day of February, 2011

**L NJAGI**

**JUDGE**