

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KISUMU
IN THE MATTER OF AN ADVOCATE

AND

IN THE MATTER OF THE ADVOCATE’S REMUNERATION ORDER

BETWEEN

RAJNI K. SOMAIA APPLICANT

VERSUS

DELPHIS BANK LTD RESPONDENT

RULING:

S. 51(2) of the Advocates Act provides that:-

“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 therein 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.”

The present application dated 21st April 2008, is for the entry of judgment for the sum of KShs.479,362/10cts on the basis of the certificates of costs annexed to the applicant’s supporting affidavit (i.e. Annexure marked KShs.1 a, b & c). It is indicated by the applicant that the retainer is not disputed. He deponed that he was instructed to defend the respondent in the material suits and thereafter raised fee notes which were not honoured. He then presented Bills of Costs for taxation and this was done on 23rd May 2004. Thereafter, on the 11th April 2008, the deputy registrar issued, the appropriate Certificates of Costs. The respondent despite being served with the application failed and/or neglected to file any response and/or objection thereto.

Consequently, the application is unopposed and satisfactory for the grant of the basic order sought i.e. entry of judgment.

Prayer (a) of the application is granted along with prayer (c).

However this Court having earlier on 27th November 2008, being notified of the existence of an order staying execution in such matters, prayer (b) may not be granted at this juncture.

Dated and Signed at Kisumu this 26th day of January 2009.

J. R. KARANJA

JUDGE

J.R.K./mo