

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI (MILIMANI LAW COURTS)

MISCELLANEOUS APPLICATION 854 OF 2005

KANTAI & CO.

ADVOCATES.....

APPLICANT

VERSUS

**THOMAS NJUNGE T/A NJUNGE INDUSTRIAL ENTERPRISES
COMPANY.....CLIENT/ RESPONDENT**

RULING

The Notice Motion dated 18th August 2008 for judgment under section 51 of the advocate's Act is opposed by the advocate's client who participated fully in the taxation of the bill of costs before the Taxing Officer of this court. The said Taxing Officer's certificate of Taxation dated 1st August 2008 has not to-date been challenged under paragraph 11 of The Advocates Remuneration (Amendment) Rules. It is virtually a year gone and this court must therefore take the taxation in that certificate of taxation as final.

The retainer is not disputed and there is no evidence exhibited before me that following taxation of the relevant bill of costs between the parties and the issuance of the relevant certificate of Taxation aforesaid, the Respondent paid any money to the applicant towards payment of this costs.

In the circumstances I do not find any good reason the Respondent is advancing in opposing this Notice of Motion as the Certificate of Taxation is an official document showing the amount of money due from the Respondent to the Applicant following their discourse during the taxation proceedings before the Taxing Officer. I am not here to repeat that process as it was during the taxation proceedings that the Respondent was supposed to show the Taxing Officer the amount of money the Respondent has paid the Applicant as Costs before taxation so that the Applicant does not claim same amount again to include it in the Certificate of Taxation as due to the Applicant from the Respondent.

From what I am saying, I do hereby reject the Respondent's opposition to this Notice of Motion and do proceed to grant the said Notice of Motion dated 18th August 2008 as prayed.

Dated this 17th day of July 2009.

J.M. KHAMONI

JUDGE