



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI LAW COURTS)
MISCELLANEOUS APPLICATION 264 OF 2008

KAMAU KURIA & KIRAITU ADVOCATES PLAINTIFF

VERSUS

WALTER KIRIMI M'MUGUNA & ANOTHER DEFENDANTS

RULING

The Chamber Summons before the court is dated 27th January, 2009. It is brought under Section 11, 12 & 13 of the Advocates Remuneration order and Section 3A of the Civil Procedure Act.

The application is seeking for orders –

- (1) This Honourable court be pleased to enlarge time fixed by Rule 11(1) of the Advocates Remuneration order for the applicant herein to give notice of his objection to the ruling delivered by the Mr. Muya Deputy Registrar on 28th October, 2008 in this matter.**
- (2) This Honourable court do admit this Chambers Summons as an objection. To the whole of the ruling and the reason thereof and reserve the decision of the taxing master.**
- (3) That the notice filed on 11th November, 2008 by the objection annexed hereto and marked WKMI be deemed as proper notice to the Deputy Registrar High Court.**
- (4) That the ruling of the Deputy Registrar is attached and marked WKM “2”**
- (5) Costs of the application be in the cause.**

The application is vehemently opposed the Respondent herein the firm of *Kamau Kuria & Kinuhtia* Advocates. They filed grounds of opposition as follows;-

- 1. The application is misconceived and does not lie since the applicant filed a valid objection pursuant to paragraph 11(1) of the Advocates Remuneration Order within time and asked for reasons of taxation which reasons were duly supplied.**
- 2. Even if the application is to be treated as a reference to a judge in chambers against the taxation of the bill of costs, the same lacks merit in that;-**

- (a) **The applicant has not shown how the taxing officer erred in taxing the bill of costs the way he did.**
- (b) **The taxing officer was right to ignore the alleged agreement on fees as the same was not reduced into writing as required by law.**
- (c) **The issue of retainer is not a proper subject of this application and in any event the same is not disputed as the applicant has admitted in his affidavit sworn on 23rd July, 2008. in this matter that he and the said Friends of Taiwan & Tibet International instructed the respondent to act for them in the suit the subject matter of the bill of costs.**

Having considered the submissions made. I do agree with the respondent's counsel only in part, that the applicant filed a valid objection pursuant to paragraph 11(1) of the Advocates Remuneration order, to that extent I decline to grant prayer 1 and 3 of the Chamber Summons.

There is nothing on record to show that the Registrar responded to the objection within 14 days as required by section 11(2) of the Advocates Remuneration order. In that regard I make the following directions -

- 1. That the deputy Registrar do comply with the requirements of Section 11(2) forthwith by recording and forwarding to the objector reasons for his decision on the item being objected to.**
- 2. That the applicant do file and serve an affidavit in response thereto within 14 days of the receipt of the registrar's reasons.**
- 3. That the applicant do set this application for hearing within 30 days of receipt of the Deputy Registrar's response.**

Dated and delivered this 30th June, 2008.

ALI- ARONI

JUDGE