

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Misc Appli 193 of 1997

OGUTU WARIUKI & CO. ADVOCATES.....APPLICANT

VERSUS

**JOINT LIQUIDATORS-NDUMBERI FARMERS CO. LTD (IN LIQUIDATION)
.....RESPONDENT**

RULING

By this Notice of Motion brought under Section 51 (1) and (2) of the Advocates Act Rule 7 of the Advocates (Remunerations) Order and Order L Rule 1 of the Civil Procedure Rules the applicant seeks orders that the costs as taxed by the Taxing Master between Client/Advocate be made Judgment of the court and that costs of this application be provided for.

The application is based on the fact that the said costs have already been taxed and Certificate of Costs issued and that the Respondent is yet to pay the said sum. The application is also supported by an affidavit sworn by Ndungu Wariuki in which he avers that the Advocate/Client Bill of Costs was taxed on 3rd July 1997 at Kshs.1,950,000/= by the Taxing Master and who issued a Certificate of Taxation. The Respondent herein has not filed a Reference by way of an appeal against the said taxation and there is no dispute as to the retainer.

The Respondent was served with this application but he never filed any papers to oppose the application nor did he appear in court to oppose the same.

The application being not opposed it is allowed in terms of Payers 1 and 2 of the Notice of Motion dated 16th November 2006.

I also award the applicants the costs of this application.

Dated at Nairobi this 13th day of March 2007.

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J.L.A. OSIEMO

JUDGE