

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

Civil Case 297 of 2007

W.G. WAMBUGU & CO. ADVOCATES.....PLAINTIFF

VERSUS

ALICE WANGUI NDERI.....DEFENDANT

RULING

By this Notice of Motion dated 15th March 2007 and expressed to be brought under Section 51(2) of the Advocates Act, Rule 7 of the Advocates (Remuneration) Order and Order L Rule 1 of the Civil Procedure Rules, the Applicant seeks orders that the costs as taxed by the Deputy Registrar on 9th March 2007 between Client/Advocate be made judgment of this court. The applicant also seeks the costs of this application.

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 W.G. Waiganjo on 15th March 2007 in which he avers that the Advocate/Client bill of costs was taxed on 9th March 2007 at Shs.127,717/= by the Deputy Registrar and who issued a certificate of taxation; that the Respondent herein has not filed a reference by way of an appeal against the said taxation and that there is no dispute as to the retainer.

The application is opposed by the Respondent on the grounds that the Applicant has not pleaded evidence on undisputed retainer with the Respondent to justify judgment under Section 51 (2) of the Advocates Act and that the application is unmeritorious. But the Respondent did not adduce affidavit or otherwise to demonstrate in what manner retainer is disputed.

Accordingly I dismiss the grounds of opposition and allow the application in terms of Prayers 2 and 3 of the Notice of Motion dated 15th March 2007.

Dated and delivered at Nairobi this 20th day of July 2007.

J.L.A. OSIEMO

JUDGE