



REPUBLIC OF KENYA

HIGH COURT OF AT NAIROBI (MILIMANI LAW COURTS)

Misc Cause 318 of 2005

OJIAMBO & CO. ADVOCATES.....APPLICANT/ADVOCATE

VERSUS

RAZCO LIMITED.....RESPONDENT/CLIENT

RULING

This application has been brought under the provisions of Rule 11(2) of the Advocates (**Remuneration**) Order. It is a reference from a taxation of the Deputy Registrar of this court. The decision on taxation was given on 6.12.2006 on the Advocates' Bill of Costs dated 25.4.2005.

The record is as follows:

The Advocates' same Bill of Costs was originally taxed on 18.10.2005 in the sum of KShs.58,610.00. Being dissatisfied with that decision, the Advocates filed a reference which was considered and allowed by my Learned Brother Ochieng J on 19.10.2006. The Learned Judge said as follows:-

“As far as the calculations were concerned, it is evident that there were errors. Therefore, I allow the reference, set aside the sum awarded, and direct that the costs be re-calculated by another taxing officer. The said re-calculations shall be carried out pursuant to Schedule 1 of the Advocates (Remuneration**) Order.”**

The directions of the Learned Judge were very clear and I dare say with all due respect narrowed the discretion of the Taxing Officer. It appears from the directions that the value of the subject matter was not in issue. The only error appears to have been arithmetical and that is exactly how the Taxing Officer interpreted the directions. The parties could easily have anticipated the decision of the Taxing Officer. Yet no appeal was lodged against the decision of Hon. Ochieng J on the first reference referred to above. This reference arises from the recalculation. I have considered the arguments made on the reference and the authorities cited to me. I have also, as I was duty bound to, considered the decision of the Taxing Officer; I detect no error at all. With all due respect the client's submissions attractive as they are would have been pertinent if I were to consider the 1st reference.

As both counsels appreciated, I cannot interfere with the Taxing Officer's decision on taxation unless it is shown that the decision was based on an error of principle. I have detected no such error.

In the result, I decline to interfere with the decision of the Taxing Officer. The client's application

dated 7.3.2007 is accordingly dismissed with costs.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 11TH DAY OF JULY 2007.

F. AZANGALALA

JUDGE

Read in the presence of:

Gichuhi for the applicant and Ojiambo for the Respondent.

F. AZANGALALA

JUDGE

11/7/07