



REPUBLIC OF KENYA
IN THE HIGH COURT
AT NAIROBI
MILIMANI LAW COURTS
Misc Appli 188 of 2007

D. NJOGU & CO. ADVOCATES.....APPLICANT

VERSUS

CITY COUNCIL OF NAIROBI.....RESPONDENT

RULING

The Applicant is an Advocate who has filed this Notice of Motion application dated 14th June, 2007 seeking judgment on taxed costs at kshs.99,185 and interest on said sum against his client. The application is expressed to be brought under Order L rule 1 of Civil Procedure Rules, Section 51(2) of Advocates Act and Rule 7 of Advocate(renumeration) Order. There are four grounds in support of the application and affidavit sworn by the Advocate in support of the Application. The Advocate has deponed that the Advocate-client costs were taxed on 23rd May, 2007 and a certificate to that effect issued. The certificate is annexure 'DN5' in his affiavit. The Applicant has annexed an instruction letter from the client as 'DNI' which shows that the Advocate was dully instructed by the client to act for it in CMCC NO. 9758 OF 2004. The Advocate

has annexed a notice of appointment of Advocate "DN2' which establishes that he acted on the instructions given and filed notice in court to indicate his appointment. Those instructions were withdrawn two years later as per annexed letter to the Advocate from the client marked 'DN3'. The Advocate has annexed a fee not sent to the client but which was not paid as 'DN4'.

I noted that the client was served with a hearing notice for this application in good time but filed no papers. This application is unchallenged. The application has been able to establish that there was a retainer which has remained unchallenged. Being satisfied that the certificate of taxation has not been varied, set aside or challenged in any way, the application is allowed in terms of prayer 1.

As to interest, this is discretion and I will allow it at 9% from date of taxation until payment in full. The advocate also gets costs of application.

Dated at Nairobi this 19th day of October 2007.

LESIIT, J.

JUDGE

Read, signed and delivered in presence of:-

LESIT, J.

JUDGE