

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

Misc Appli 452 of 2005

ISEME, KAMAU & MAEMA ADVOCATESAPPLICANT

VERSUS

ALFRED SAMBU WEKESA T/A GOLDSTAR RESTAURANT...RESPONDENT

RULING

The Applicant, a firm of Advocates has by Notice of Motion dated 29th August, 2005 brought under *Section 51(2)* of Advocates Act and *Order L rule 1* of Civil Procedure Rules sought judgment against its client the Defendant in RMCC No.8446/95, in the sum taxed by the Taxing officer on 15th August, 2005. It also seeks an order to execute against the Respondent/client without further or other proceedings.

There are four grounds cited on the face of the application in support of the application and, an affidavit in support thereof sworn by Ben Simiyu for the firm of advocates.

The client was served with this application and a hearing notice but filed no papers. The application is therefore unopposed. I note from the file that the Respondent did not also attend the Taxing Master for the taxation of the Bill of costs despite service.

The Advocate has established that it was retained to act for the client in the above stated case and has annexed in the supporting affidavit the memorandum of appearance, the statement of defence and the written submissions filed in the RM'S suit by the applicant on behalf of the client. They are annexure "B.S.1". There is also annexed thereto the certificate of costs by the Taxing master marked "BS 2". The Advocate depones that the sum as taxed has not been settled neither has the client challenged the certificate of costs nor has it raised any objection nor had it set aside.

I am satisfied that the Applicant's Bill of costs was duly taxed. Under Section 51(2) of Advocates Act, the certificate issued by the taxing master is final. In any event, no application has been filed to challenge the taxation, neither has the certificate of costs been set aside nor costs therein varied. The Advocate is entitled to his costs. I will allow the application in the terms prayed for under prayer 1 and 2 of the application, with costs to the Applicant.

Dated at Nairobi this 19th day of October 2007.

LESIIT J

JUDGE

Read, signed and delivered in presence of:

N/A

LESIIT, J.

JUDGE