

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

Misc Appli 1111 of 2005

KAMUNYORI & COMPANY ADVOCATES..... APPLICANT

VERSUS

NANCY DIETZ.....RESPONDENT

R U L I N G

The client's Chamber Summons dated 27.3.2006 came up before me for hearing on 14.6.2006. The client is seeking a review or a setting aside of an order of the Deputy Registrar on a taxation of an Advocate Client Bill of Costs. Before the application could be heard, the Advocate raised objection to the same as per his Notice of Preliminary Objection dated and filed on 6.6.2006 on the ground that the firm of V. V. Mule & Company Advocates is not properly on record. That firm now acts for the client who by a Power of Attorney has appointed one Dickson Murangi Muraya to sue for and recover in her name damages arising as a result of an accident involving her car.

The foundation of the objection is that the said Power of Attorney is limited to the recovery of damages for the client and its mandate does not extend to appointing an Advocate to resist the present Chamber Summons.

For the client it is argued that, the Power donated by the said Power of Attorney is wide enough to cover the appointment of counsel to resist the Chamber Summons which summons is in reality related to the recovery for which the power was donated.

Having heard the rival submissions of counsel, I take the following view of the matter. The power that the client donated to Dickson Mwangi Muraya was "***to sue for and recover in my name damages arising as a result of an accident involving my car registration number KAG 323V on 7.5.1999.***" It is the same power that Dickson Mwangi Muraya exercised to appoint the Advocate to institute the proceedings that have given rise to the taxation by the Deputy Registrar and subsequently the present reference. The client is the one challenging the taxation of the Bill of Costs filed by the Advocate. In my respectful view, the taxation was a transaction appurtenant to the mandate to recover damages for the client. It was a proceeding in the recovery. In my respectful view this reference is like defending the recovery process and is within the mandate of the donee of the Power of Attorney given by the client.

Being of that view I hold that the Preliminary Objection has not been well taken and is overruled with costs to the client.

Order accordingly.

DATED AND DELIVERED AT NAIROBI THIS 4TH DAY OF JULY, 2006.

F. AZANGALALA

JUDGE

4.7.2006

Read in the presence of:-