



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

**Misc Civil Case 553 of 2005**

**OCHIENG ONYANGO, KIBET & OHAGA.....APPLICANT**

**VERSUS**

**NELLIWA BUILDERS & CIVIL ENGINEERS LTD.....RESPONDENT**

**R U L I N G**

The Advocate/Applicant has filed a Notice of Motion brought under Section 51 (2) of The Advocates Act. The application seeks judgment against the respondent for Kshs 108, 329. 60 being the balance of taxed costs after credit of part payment of Kshs 100, 000. The Respondent though served failed to attend the hearing of the Notice of Motion. The Advocate/Applicant annexed to the application the certificate of taxation for the amount of Kshs 208, 329. 60. Section 51 [2] of The Advocates Act provides that unless the certificate of Taxation is set aside or altered by the court, the amount thereof is final as the amount of costs and in case where the retainer is not disputed the court may order that judgment be entered for the sum certified. The Advocate/Applicant has admitted receipt of part payment of those costs from the respondent for the amount of Kshs 100, 000. The balance due and payable therefore is kshs 108, 329. 60. I find that the Applicant has made out a case for judgment to be entered in its favour as prayed. The order of this court is as follows:

- (1) That judgment be and is hereby entered for the Applicant for Kshs 108, 329. 60.**
- (2) That the costs of the Notice of Motion dated 5<sup>th</sup> September 2006 are awarded to the applicant.**

**MARY KASANGO**

**JUDGE**

Dated and delivered this 17<sup>th</sup> day of October 2006.

**MARY KASANGO**

**JUDGE**