



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

**Misc Appli 861 of 2005**

**SANKALE OLE KANTAI T/A KANTAI & COMPANY ADVOCATES.....APPLICANT**

**VERSUS**

**KENYA BUS SERVICES LIMITED.....RESPONDENT**

**RULING**

On 9<sup>th</sup> February 2006 the learned taxing officer delivered his ruling, in which he had allowed the Advocate/Client costs in the sum of KShs. 70,297/50.

Following the taxation, the firm of advocates, who shall hereinafter be cited as “**the applicant**” brought an application pursuant to the provisions of Section 51(1) and (2) of the Advocates Act. Through this application, which is dated 13<sup>th</sup> April 2006, the applicant seeks judgement in terms of the taxed costs. The applicant also seeks interest on the taxed costs, as well as costs of the application.

In an affidavit in support of the application, Mr. Sankale Ole Kantai, advocate states that his law firm was duly instructed by the respondent, to represent it in HCCC No. 31 of 2001.

As the respondent did no dispute that assertion, the court finds that there is no dispute as to the fact that the defendant had duly instructed the applicant to act for it in the above-cited case. In effect, I hold that there is no dispute as to retainer.

Secondly, there is a certificate of taxation which was issued by the learned taxing officer. The said certificate is dated 15<sup>th</sup> March 2006.

Pursuant to the provisions of Section 51 (2) of the Advocates Act, as the certificate of taxation has not been set aside or altered by the court, it is deemed to be final as to the amounts of the costs covered thereby.

Therefore, in the exercise of the authority conferred upon me by the provisions of Section 51(2), I hereby order that judgement be entered in favour of the applicant, for Kshs. 70,297/50.

As regards interest, the applicant has not indicated the date when they first delivered their bill to the client, the respondent herein. Had they done so, I would have granted interest from a date that was one (1) month from the date when the bill was delivered to the client, as envisaged by Rule 7 of the Advocates (Remuneration) Order.

In the absence of the specific date, I find that it is only reasonable to award interest at the rate of 9% from 16<sup>th</sup> April 2006, which is a date that was a month from the date of the issuance of the certificate of taxation.

Finally, the costs of the application dated 13<sup>th</sup> April 2006 are awarded to the applicant.

Dated and Delivered at Nairobi this 4th day of October 2006.

**FRED A. OCHIENG**

**JUDGE**