

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI (MILIMANI COMMERCIAL COURTS)

Misc Cause 353 of 2006

KULECHO & CO. ADVOCATESAPPLICANT

VERSUS

INVESCO ASSURANCE CO. LTD.....RESPONDENT

RULING

The Applicant has moved this court by Notice of Motion dated 6th October, 2006. The Applicant seeks that judgement be entered against the Respondent for sum of Kshs.28,000/= being the taxed costs. The Applicant further seeks interest at the rate of 9% per annum as provided by paragraph 7 of the Advocates (Remuneration) Order. The Applicant has moved under Section 51 (2) of the Advocates Act. In the affidavit in support the Applicant who is the advocate with the bill stated that he is an advocate practicing under the name of Kulecho & company Advocates. By instructions of 9th December, 2005 the Respondent retained him as an advocate to defend RM.CC. No.9937 of 2005. The advocate proceeded to file an appearance and Defence and informed the Respondent of the development of the suit. Thereafter the Respondent failed or declined to furnish the Applicant with instructions on how to pursue the matter. Further on being presented with the fee note the Respondent failed to settle the Applicant's fee. Having so failed the applicant filed his bill of costs which was taxed by the court on 18th July, 2006. As it can be seen from the Deputy Registrar's certificate of taxation dated 28th September, 2006 the aforesaid bill of costs was taxed by consent between the parties. It will therefore seem that there is no dispute as to retainer in this matter. That certificate of taxation has not to date been set aside or varied. By paragraph 7 of the Advocates (Remuneration) Order an advocate is entitled to charge 9% interest per annum on his disbursements and costs. There being no opposition to the Applicant's application the court will grant the following orders:-

- (1) That judgement be and is hereby entered against the Respondent in the sum of Kshs.28,000/= being the taxed costs.**
- (2) That the Applicant is granted costs of the Notice of Motion dated 6th October, 2006.**
- (3) That the Applicant is awarded interest at the rate of 9% per annum on the taxed costs thereof.**

MARY KASANGO

JUDGE

Dated and delivered this 27th day of November, 2006

MARY KASANGO

JUDGE