

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

Misc Appli 680 of 2006

A. M. KIMANI & CO. ADVOCATES.....ADVOCATE/APPLICANT

VERSUS

KENINDIA ASSURANCE CO. LTD.....CLIENT/RESPONDENT

R U L I N G

This is an application for summary judgement pursuant to the provisions of Section 51(2) of the Advocates Act.

The applicant has asked the court to grant judgement in its favour, for a sum equivalent to the taxed costs.

There is no dispute on the depositions set out in the affidavit of Alice Mugure Kimani, advocate, as the respondent failed to file any replying affidavit. In the circumstances, I do find that there was no dispute about the fact that the respondent herein, Kenindia Assurance Company Limited, had retained the firm of A. M. Kimani & Company Advocates, to defend the respondent's insured, in **Kajiado CMCC No. 358 of 2005**.

Having provided professional services to the respondent, the applicant raised a feenote dated 20th June 2006, which was delivered to the respondent on 21st June 2006.

A copy of the feenote, which the applicant made available to the Court, shows that the applicant had asked the respondent to pay KShs. 34,974/=.

Although it is not expressly stated by the applicant, it would appear that the respondent did not pay the fee which was demanded by the applicant.

On 14th July 2006, the applicant lodged its Bill of Costs for taxation. The said Bill of Costs was taxed on 9th August 2006, and a ruling thereon was then delivered on 10th August 2006.

In her ruling, the learned taxing officer, Mrs Kiema, awarded to the applicant, the sum of KShs. 78,566/80. Thereafter, a certificate of taxation was issued on 21st August 2006, and it confirmed the award of costs.

As there has not been any alteration or other challenge to the certificate of taxation issued in this matter, it is deemed to be final as to be amount of costs covered thereby. That is what Section 51(2) of the Advocates Act stipulates.

Accordingly, pursuant to the authority bestowed upon me by that statutory provision, I hereby enter judgement in favour of the applicant for KShs.78,566/80.

The said sum will attract interest at the rate of 9% per annum from 22 July 2006, which is a date that is more than a month from the time the applicant's bill was delivered to the respondent for payment.

I also award to the applicant, the costs of the application dated 21st September 2006.

FRED A. OCHIENG

JUDGE

Read and Delivered at Nairobi by Azangalala J. this 6th day of November 2006.

F. AZANGALALA

JUDGE