

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL DIVISION, MILIMANI

Civil Suit 321 of 2005

**JUSTUS MULEI KITUKU T/A KITUKU & CO. ADVOCATES
PLAINTIFF**

VERSUS

KENYA KNITTING & WEAVING MILLS CO. LTD.....DEFENDANT

J U D G M E N T

The plaintiff has come by way of originating summons seeking orders that: -

- That the defendant/Respondent does pay and or deliver up kshs 195, 859. 50 pursuant to the taxation dated 9th March 2005.
- That the defendant/Respondent does pay interest on the amount owed to the plaintiff/applicant from the date of taxation till payment in full.
- That the costs for this suit be borne by the defendant/respondent. The plaintiff and the defendant had advocate client relationship. The defendant instructed the plaintiff to file a suit, namely HCCC NO. 34 of 2004 against Kenya Commercial Bank Limited. On the withdrawal of those instructions the plaintiff taxed an advocate/client bill of costs. The said bill was taxed on 9th march 2005 for kshs 1, 075, 859. 50.

The defendant has to date paid kshs 880, 000 towards those taxed costs leaving a balance of kshs 195, 859.50.

The plaintiff prays for judgment for this amount as against the defendant. Although the defendant were served with the originating summons, they did not file an appearance and accordingly the matter proceeded to hearing by formal proof. The plaintiff has on a balance of probability proved its claim as prayed. The judgment of this court therefore is: -

- 1) That judgment is entered for the plaintiff against the defendant for kshs 195, 859. 50 with interest at court rate from the date of suit until payment in full.

2) The defendant shall pay the plaintiff's costs of this suit.

Dated and delivered this 27th July 2005.

MARY KASANGO

JUDGE