

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA**

AT NAKURU

MISCELLANEOUS APPLICATION NO. 101 OF 2000

KARURU MWAURA & CO. ADVOCATES.....APPLICANT

VERSUS

GEORGE KAGIMA KARIUKI.....1ST RESPONDENT

DANIEL BARAGU.....2ND RESPONDENT

SUSAN WAIRIMU NDIANGUI.....3RD RESPONDENT

R U L I N G

The applicant filed an application dated 28th June, 2002 by way of a Chamber Summons under the Advocates (Remuneration) Order Rule 11(2) seeking to set aside the decision of the taxing officer in respect of various items in his bill of costs.

On item No.2, it was stated that the value of the subject matter was Kshs.72 million which could be determined from the plaint. The applicant had asked for Kshs.1,700,000/- under item 2 and only Kshs.120,000/- was allowed.

The suit was initially filed in Nairobi and there were travelling expenses from Nairobi to Nakuru, it was alleged. As the file which gave rise to the bill of costs was not availed to me so that I could look at the plaint to determine what the subject matter was, at the invitation of the applicant's advocates I called for the file from the civil registry, HCCC No. 533 of 1999, formerly HCCC No. 2414 of 1999 at Nairobi. I then realised that the matter had not been finalised but there had been a change of advocates for the Plaintiff and Juma Kiplenge came on record in place of Karuru Mwaura & Co. Advocates.

The suit itself is coming up for mention on 21st October, 2004. If the matter had not been finalised and only a change of advocates took place, then it was not in order for a bill of costs to have been filed. Rule 62A(1) of the Advocates (Remuneration) Order provides as follows:-

“Where there has been a change of advocates or more than one change of advocates, the advocate finally on the record shall draw a single bill for the whole of the matter in respect of which costs have been awarded.”

Before I make final orders regarding this issue, I direct that the matter be mentioned on 22/10/2004 so that the parties can confirm the actual position of the main suit.

DATED at Nakuru this 19th day of October, 2004.

DANIEL MUSINGA

AG. JUDGE

19/10/2004