



Bruce Odeny & Co. Advocates v Pride Kings Security Services Ltd (Miscellaneous Civil Application E101 of 2023) [2024] KEHC 5208 (KLR) (15 May 2024) (Ruling)

Neutral citation: [2024] KEHC 5208 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CIVIL APPLICATION E101 OF 2023
RE ABURILI, J
MAY 15, 2024**

BETWEEN

BRUCE ODENY & CO. ADVOCATES APPLICANT

AND

PRIDE KINGS SECURITY SERVICES LTD RESPONDENT

(Arising from the professional services rendered by the Applicant for the Respondent in the original Kisumu HCCC No. 3 of 2020)

RULING

1. This file has other 8 other files related to it are all Advocate/Client matters involving legal fees.
2. The Advocate had his bill of costs taxed against the Client/Respondent on 26th October 2023. He then applied for adoption of the Certificate of Costs dated 26th October 2023 as judgment of the court.
3. The Respondent/Client then filed an application dated 30th November 2023 seeking for stay of execution of the taxed costs and in addition, for setting aside of the taxation on account of the client having settled all the legal fees claimed.
4. The application by the Respondent therefore opposes the conversion of the certificate of costs into judgment and decree of the court capable of being executed.
5. The advocate filed a Replying affidavit denying that his legal fees were settled in the primary matter subject of the taxed bill of costs, being Kisumu HCC No. 3 of 2020 between *Pride Kings Services Ltd vs Chemelil Sugar Company Limited*.
6. Before I delve into the arguments and therefore merits of the two applications, my attention is drawn to one aspect in this file and therefore I must address it.



7. The Bill of Costs dated 27th July 2023 was taxed on 26th October 2023. The bill is said to be emanating from Kisumu HCC No. 3 of 2020 stated above.
8. According to the taxing master, and in her own words on record, the bill should have been filed in the ELRC. The basis for that observation in her taxation Ruling is not given.
9. Nonetheless, the taxing master went ahead and taxed the bill without making any reference to the primary court file. There is no indication in the Ruling as to whether she called for the primary court file to satisfy herself of the items in the bill and whether those items were supported or not.
10. The bill was taxed at Kshs.777,861. That is not an amount a court of law can reach without satisfying itself that it is indeed justified.
11. The items in the bill of costs were 20. The question is, what was the basis for allowing and or rejecting some items. No information is available.
12. Relying on [Schedule 6](#) in making her determination is not the basis or justification for making the awards.
13. I find the taxation to have been undertaken in error. It cannot be sustained as it is not supported at all.
14. I therefore on the court's own motion decline to consider on merit the application for conversion of the certificate of costs into judgment of the court.
15. I set aside the taxation and certificate of taxation dated 26th October 2023 and remit the file back to the Deputy Registrar to consider the matters that I have raised in this ruling, and giving reasons for observing in her taxation ruling that "Ordinarily, this matter should have been filed before ELRC."
16. I make no orders as to costs.
17. Mention before Deputy Registrar on 27th June, 2024

DATED, SIGNED AND DELIVERED AT KISUMU THIS 15TH DAY OF MAY, 2024

R. E. ABURILI

JUDGE

