



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NAIROBI

ELC MISC APP NO 99 OF 2019

KIPYATOR KIBET & ASSOCIATES ADVOCATES.....APPLICANT

=VERSUS=

JOHN KIPKORIR AYABEI T/A NAIGREEN ENTERPRISES.....RESPONDENT

RULING

1. This is a notice of motion dated 16th February 2019 brought under paragraph 11(5) of the Advocates Remuneration Order 2009, section 3, 3A and 63(e) of the Civil Procedure Act and all other enabling provisions of the law.

2. It seeks orders that:-

1. There be a stay of execution of the costs awarded by the Taxing Officer Senior Deputy Registrar I. N. Barasa in ELC MISC 99 of 2019 pending the hearing and determination of the reference.

2. This honourable court be pleased to enlarge the time within which to file a reference by the applicant against the decision of the Taxing Officer Senior Deputy Registrar I.N. Barasa delivered on the 19th of November 2019.

3. That the Reference filed be deemed as properly filed though filed out of time.

4. The honourable court do issue such other orders/directions as it may deem fit and just.

3. The grounds are on the face of the application and are set out in paragraphs (a) to (f).

4. The application is supported by the affidavit of Kibet Wisdom, Advocate, sworn on the 16th December 2019.

5. The application is opposed. There are grounds of opposition filed by the Respondent dated 14th February 2020.

6. On the 23rd November 2020, the court with the consent of the parties directed that the Application be canvassed by way of written submissions.

7. I have considered the notice of motion and the affidavit in support. I have considered the grounds of opposition and the written submissions. The issue for determination is whether this application is merited.

8. In paragraph (d) of the supporting affidavit the Advocate states that he was not able to file a reference on time as he was paternity leave.

9. I am not convinced that this is sufficient reason to warrant this court to grant the orders as sought in prayer no 3 of the Application. The Advocate has not annexed any documents to confirm the said averment.

10. I find no merit in this application and the same is dismissed with no orders as to costs.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 2ND DAY OF DECEMBER 2021.

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L. KOMINGOI

JUDGE

In the presence of:-

Ms Kasewe for Kibet for the Applicant

Mr. P. K. Kibet for the Respondent

Steve - Court Assistant