



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

(CORAM: CHERERE-J)

MISC. CIVIL APPLICATION NO 40 OF 2019

BETWEEN

OTIENO C.O. AYAYO & COMPANY ADVOCATES...APPLICANT/ADVOCATE

AND

JANE ADHIAMBO ODERO.....RESPONDENT/CLIENT

RULING

1. By a Notice of Motion dated 06th May, 2019, brought under the provisions of Section 51 of the Advocates Act, the Applicant/Advocate seeks the following orders:

1) That the certificate of costs issued herein in respect of taxation order made on 03.04.19 for the sum of Kshs. 571,720.20 (five hundred seventy-one thousand, seven hundred and twenty shillings and twenty cents) be adopted as judgment and decree of this Honourable Court together with interest at 14% p.a from 03.04.19 until payment in full

2) That costs of this application be borne by the Client/Respondent

2. The Respondent though served neither opposed the application nor sent representation when the matter came up for hearing on 28.01.2020.

3. I have considered the Application in the light of the supporting affidavit and annexures thereto. The bill of costs was taxed at **Kshs. 571,720.20 (five hundred seventy-one thousand, seven hundred and twenty shillings and twenty cents)** and a certificate in respect thereof dated 03.04.19 was issued on 11.04.19.

4. It is not disputed that the advocate acted for the client in **MBITA ELC NO. 10 OF 2017**. Since retainer is not denied, the Advocate/Applicant is entitled to its costs.

5. Regarding interest, I have considered the provisions of Rule 7 of the Advocates Remuneration Order which provides: -

“An advocate may charge interest at 14% per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, providing such claim for interest is raised before the amount of the bill has been paid or tendered in full.”

6. The bill of costs was sent to the Respondent/Client on 07.03.19 and interest is payable from 30 days of such delivery. The claim for interest from 11.04.19 gives an allowance for delivery of the notice and shall be the date that interest starts to accrue.

7. The upshot of this is that Notice of Motion dated 06th May, 2019 succeeds and is allowed in the following terms:

a) Judgment is hereby entered for the advocate against the Respondent for Kshs. 571,720.20 (five hundred seventy-one thousand, seven hundred and twenty shillings and twenty cents)

b) Interest shall be paid at 14% from 11th April, 2019 till payment in full

c) The Advocate will also have the costs of this application.

DATED, DELIVERED AND SIGNED ON THIS 06th DAY OF February 2020

T.W. CHERERE

JUDGE

Read in open court in the presence of-

Court Assistant - Amondi/Okodoi

For Applicant/Advocate - N/A

For Respondent/Client - N/A