



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISUMU

(CORAM: CHERERE-J)

MISC. CIVIL APPLICATION NO 84 OF 2019

BETWEEN

OTIENO, RAGOT & COMPANY ADVOCATES.....APPLICANT/ADVOCATE

AND

MOHAMED ALI MOTHAS.....RESPONDENT/CLIENT

RULING

1. By a Notice of Motion dated 06th December, 2019, brought under the provisions of Section 51 (2) of the Advocates Act, the Applicant/Advocate seeks the following orders:

1) That the Honourable Court be pleased to adopt the certificate of costs dated 03rd October, 2019 for Kshs. 146,117.60 (one hundred forty-six thousand, one hundred and seventeen shillings and sixty cents) together with interest from 03.10.19 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 30.01.2020.

3. I have considered the Application in the light of the supporting affidavit and annexures thereto. The bill of costs was taxed at **Kshs. 146,117.60 (one hundred forty-six thousand, one hundred and seventeen shillings and sixty cents)** and a certificate in respect thereof dated 03.10.19 was issued on 16.10.19.

4. It is not disputed that the advocate acted for the client in **KISUMU CMCC NO. 183 OF 2016**. 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 notice of taxation of the bill of costs was served on the Respondent/Client on 28.06.19 and interest is payable from one month after such delivery. Interest shall therefore accrue at 14% per annum from 28.07.19.

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. 146,117.60 (one hundred forty-six thousand, one hundred and seventeen shillings and sixty cents)

b) Interest shall be paid at 14% from 28th July, 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 - Mr. Ragot

For Respondent/Client - N/A