



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KIAMBU**

**MISC. CIVIL CASE NO. 168 OF 2017**

**WAIGANJO WACHIRA & Co. ADVOCATES.....APPLICANT**

**VERSUS**

**PACIS INSURANCE COMPANY LIMITED.....RESPONDENT**

**RULING**

1. The undisputed facts of this matter are that the Applicant firm (Wachira & Co. Advocates) were instructed by **Pacis Insurance Co. Ltd**, the Respondent, to file and prosecute **Kikuyu Civil Case No.17 of 2017 Winnie Nyambura v Josphat Ole Mpoe**. On 14<sup>th</sup> September 2017 the Applicants filed a bill of costs amounting to KShs.62,877.80 against the Respondent. The bill was taxed and a ruling on the bill of costs subsequently delivered. By the ruling, costs were taxed as sought and a certificate of taxation dated 29<sup>th</sup> August 2018 issued.

2. Thereafter, the Applicants firm brought the application which is the subject of this ruling, seeking that judgment be entered for the Applicants against the Respondents in terms of the said certificate. The application was resisted by the Replying affidavit of the Respondent which raises the sole objection that the certificate of taxation had not been served upon the Respondent, and that though the Applicant firm was entitled to legal fees, it was not entitled to interest at 14% as claimed, for want of service of the certificate of taxation.

3. The court directed the parties to file brief submissions. Only the Applicant firm filed submissions, in which the provisions of Section 51(2) of the Advocates Act are reiterated. As regards interest, the Applicants assert, citing the decision of **Gikonyo J in Muri Mwaniki B Wamiti Advocates v John Ngigi Nganga & Another [2014] e KLR** that under Rule 7 of the Advocates Remuneration Order interest is chargeable on costs, at the expiry of one month from the date of delivery of the bill of costs by the advocate to the client; and that the rule refers to delivery of the bill of costs and not to certificate of taxation.

4. The court has considered the material canvassed. The bill of cost was served upon the client on 22<sup>nd</sup> September 2017 *vide* the affidavit of service filed into court on 5<sup>th</sup> October 2017. Evidently, the bill was not settled within the timelines stipulated in Rule 7 of the Advocates Remuneration Order. There is no further requirement on the part of the Applicant firm to serve the certificate of taxation on the client before the amounts claimed starts accruing interest. Rule 7 of the Advocates Remuneration Order is in the following terms.

**“An advocate may charge interest at 14 per cent 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, provided that such claim for interest is raised before the amount of the bill shall have been paid or tendered in full.”**

5. On a plain reading of the Rule, there can be no dispute that the Applicant herein is entitled to interest on his costs at the rate of 14 per cent per annum until the sum is paid in full. In the circumstances, I do allow the application filed on 14<sup>th</sup> September 2018 in its entirety.

**DELIVERED AND SIGNED AT KIAMBU THIS 13<sup>TH</sup> DAY OF FEBRUARY 2020**

**C. MEOLI**

**JUDGE**

**In the presence of:**

Applicant - No Appearance

Respondent - No appearance

Court Assistant - Kevin/Nancy