

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MILIMANI LAW COURTS

MISCELLANEOUS APPLICATION NO 637 OF 2017

WAIGANJO WACHIRA & CO ADVOCATES.....ADVOCATES

VERSUS

PACIS INSURANCE COMPANY LIMITED.....CLIENT

RULING

1. The Applicant's Notice of Motion application dated 29th July 2019 and filed on 30th July 2019 sought entry of judgment for the taxed Advocate-Client Costs of Kshs 75,271/= contained in the Certificate of Taxation dated 18th July 2019 with interest thereon at the rate of fourteen (14%) per cent per annum with effect from 31st October 2017 until payment in full. It also prayed for costs to be awarded to the Applicant herein.

2. The said application was supported by the Affidavit of James Ichaura Wachira that was sworn on 29th July 2019. He stated that he was instructed by the Respondent herein to represent its insured in **Nairobi Civil Case No 8223 of 2013 Phillip Kiplangat Towet vs Hurricane Cleaning Services Ltd** and the firm of M/S Mbai Waweru & Co Advocates entered appearance for the opposing party.

3. He averred that on 31st October 2017, the Applicant filed an Advocate-Client Bill of Costs that was taxed at Kshs 74,271/= and a Certificate of Taxation was duly issued on 18th July 2019. It was his contention that it was in the interests of justice that judgment be entered as had been sought by the Applicant herein so that it could recover the full amount due to it.

4. On 16th October 2019, this court granted the Respondent herein an opportunity to file its response and Written submissions in respect of the present application. However, as at the time it reserved its Ruling, the Respondent had not filed the aforesaid documentation.

5. It was therefore apparent that the present application was unopposed. However, the court could not grant the orders sought as a matter of course and therefore carefully considered the said application.

6. A perusal of the Affidavit of James Ichaura Wachira, advocate, and the grounds on the face of the present application showed that the Advocate-Client Bill of Costs was taxed and a Certificate of Costs issued as aforesaid. There was no dispute on retainer of the Applicant by the Respondent. There was also no evidence that the Respondent had filed a reference that was pending hearing and/or determination and/or that the aforesaid Taxed Costs had been set aside and/or vacated.

7. As advocates do not offer any charity work to clients when they offer their legal services and must then be paid their dues, this court came to the firm conclusion that the Applicant had satisfied it that it was entitled to the said costs.

DISPOSITION

8. Accordingly, the upshot of this court's ruling was that the Applicant's Notice of Motion application dated 29th July 2019 and filed on 30th July 2019 was merited and the same is hereby allowed as prayed.

9. It is so ordered.

DATED and DELIVERED at NAIROBI this 7th day of May 2020

J. KAMAU

JUDGE