



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT HOMA BAY**

**MISCELLANEOUS CAUSE NO.10 OF 2018**

**IN THE MATTER OF THE ADVOCATES ACT**

**AND**

**IN THE MATTER OF THE ADVOCATES REMUNERATION (AMENDMENT) ORDER, 2014**

**AND**

**IN THE MATTER OF RECOVERY OF TAXED COSTS AS BETWEEN ADVOCATES AND CLIENTS**

**BETWEEN**

**OKONGO WANDAGO & COMPANY ADVOCATES....ADVOCATES/APPLICANT**

**VERSUS**

**INVESCO ASSURANCE COMPANY LIMITED..... CLIENT/RESPONDENT**

**ADVOCATES-CLIENT COSTS ARISING FROM CONTENTIOUS MATTERS IN OYUGIS SRMCC NO.51 OF 2016**

**RULING**

[1] The application by **Okongo Wandago & Co. Advocates**, vide a Notice of Motion dated 17<sup>th</sup> October 2018, basically seeks orders that judgment be entered against the respondent, **Invesco assurance Co. Limited**, for the sum of Kshs.116, 253/= as stated in the certificate of costs dated 9<sup>th</sup> October 2018 and that the certificate be deemed to be a decree of this court for the taxed sum found due to the applicant against the respondent.

[2] The application is based on the grounds in the body of the notice of motion as fortified by the averments contained in a supporting affidavit deponed by **Kennedy Okongo** on 17<sup>th</sup> October 2018. The respondent was duly served with the application and the necessary hearing notice but failed to file a response nor attend the inter parties hearing of the application. It may therefore be safely inferred that the application is free from any objection and/or opposition from the respondent.

[3] The suit from which the certificate of costs issued was **PMCC No.51 of 2016** at Oyugis. The relevant advocate/client bill of costs was filed before the Deputy Registrar of this court on 19<sup>th</sup> June 2018 and on the 20<sup>th</sup> June 2018, the necessary notice of taxation was issued to the parties.

The bill was eventually taxed on the 9<sup>th</sup> October 2018 in the sum of Kshs.116, 253/= and the certificate of costs was issued on 18<sup>th</sup> October 2018, on which date the applicant filed a notice of objection under **Rule 11 (1)** of the **Advocates Remuneration (Amendment) Order, 2014** but seemed not to have pursued it.

[4] Under **Section 51 (2)** of the **Advocates Act (Cap.16 Laws of Kenya)**, “the certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the court, be final as to the amount of the costs covered thereby and the court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs”.

[5] This court, having considered the application on the basis of the supporting grounds and the oral submissions by the applicant’s learned counsel, **M/s Ojwang**, and considering that the application remained unopposed by the respondent, is satisfied that there is merit in the application as there is no disputed whatever on the retainer.

Therefore, prayers 2, 3 and 4 of the notice of motion are hereby granted.

As similar applications involving the same parties arising from suits filed at the magistrate's court in Oyugis being **PMCC No.49 of 2016, NO.50 of 2016** and **No.96 of 2014**, were presented before this court on the same day in **Misc. Civil Cases No.12, 13 and 39**, this ruling shall apply to these other cases subject to necessary alterations in the decretal amounts.

Ordered accordingly.

**J.R. KARANJAH**

**JUDGE**

**12.03.2019**

[Read and signed this **12<sup>th</sup>** day of **March, 2019**].