



**REPUBLIC OF KENYA**

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

**JUDICIAL REVIEW MISC. APPLICATION NO. 55 OF 2018**

**IN THE MATTER OF THE ADVOCATES ACT**

**AND**

**IN THE MATTER OF THE ADVOCATES REMUNERATION ORDER**

**BETWEEN**

**THE REGISTERED TRUSTEES OF SIR**

**ALI MUSLIM CLUB.....APPLICANT**

**VERSUS**

**THE NAIROBI CITY COUNTY.....RESPONDENT**

**RULING**

1. The Applicant herein filed a Chamber Summons dated 20<sup>th</sup> September 2018 seeking the following Orders:

1. That the Order made by the Taxing Officer herein on the 16<sup>th</sup> August 2018 allowing the sum of Kshs 910,000/= as costs for the Applicant be set aside.
2. The Applicant's Bill of Costs dated 15<sup>th</sup> December 2017 be referred back to the Taxing Officer with directions for fresh taxation.
3. The costs of the application be provided for.

2. The grounds for the application were that the Taxing Officer erred in law as the instruction fees awarded is not commensurate with the importance and value in the judicial review application as the award made is on the very law side. Further that no award was given for item number 48 of the Bill of Costs in respect of getting up fees, and that the decision made in regard to item numbers 29, 30,32, 39, 44, 51, 54, 57 and 58 is not in keeping with the actual figures set out in the Bill of Costs. Therefore that the decision of the Taxing Officer amounted to a wrongful exercise of discretion.

3. The Respondent stated that it would respond by way of submissions, and the parties proceeded to canvass the application by way of written submissions, which were filed in Court on 27<sup>th</sup> November 2018 by Tom Ojienda & Company Advocates for the Respondent, and on 11<sup>th</sup> February 2019 by A.B Shah Advocates for the Applicant. Upon perusal of the said Chamber Summons and submissions, this Court noted that the Applicant is seeking orders in relation to, and citing and relying on a Bill of Costs filed as a result of **Judicial Review Application No. 46 of 2017 – The Registered Trustees of Sir Ali Muslim Club vs The Nairobi City County**, and a ruling delivered thereon by the Taxing Officer on 16<sup>th</sup> August 2018.

4. However, neither the said Bill of Costs, nor the ruling by the Taxing Officer are annexed to the Applicant's application. It is also not clear why the Applicant has brought the reference by way of fresh suit, as he is seeking to set aside a ruling that was delivered in **Judicial Review Application No. 46 of 2017 – The Registered Trustees of Sir Ali Muslim Club vs The Nairobi City County**. At this stage it suffices to state that this Court is not in a position to deliver a ruling on the Applicant's application in the absence of any supporting documents.

5. In the premises I order as follows:

- a) The Applicant shall file and serve a supplementary affidavit within 30 days annexing the supporting documents being relied upon

for the orders sought in its Chamber Summons dated 20<sup>th</sup> September 2018.

b) The Respondent shall have corresponding leave to file and serve a replying affidavit if need be, within 14 days of service of the Applicant's supplementary affidavit.

c) This suit shall thereafter be mentioned to set a new ruling date .

d) The Deputy Registrar of the Judicial Review Division of the High Court in Nairobi shall in the meantime bring up the file for **Judicial Review Application No. 46 of 2017 – The Registered Trustees of Sir Ali Muslim Club vs The Nairobi City County** for perusal, before the next date of the mention of this suit.

6. Orders accordingly.

**DATED AND SIGNED AT NAIROBI THIS 8<sup>th</sup> DAY OF APRIL 2019**

**P. NYAMWEYA**

**JUDGE**