



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

(CORAM: CHERERE-J)

MISC. CIVIL APPLICATION NO 103 OF 2019

BETWEEN

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

AND

CHEMELIL SUGAR COMPANY LIMITED.....RESPONDENT/CLIENT

RULING

1 By a Notice of Motion dated 08th August, 2019, brought under the provisions of Section 51 (2) of the Advocates Act, the Applicant/Advocate seeks the following orders:

1) That the certificate of costs issued herein in respect of taxation order made on 24.07.19 for the sum of Kshs. 40,225.40 (forty thousand, two hundred and twenty five and forty cents) be adopted as judgment and decree of this Honourable Court together with interest at 14% p.a from 29.08.2009 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 08.10.19.

3. I have considered the Application in the light of the supporting affidavit and annexures thereto. The bill of costs was taxed at Kshs. 40,225.40 and a certificate in respect thereof dated 24th July, 2019 was issued on 02nd August, 2019.

4. It is not disputed that the advocate acted for the client in **NYANDO SRMCC NO. 116 OF 2008 ALFRED OMANGA OMEGA CHEMELIL SUGAR CO. LTD.** 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.” (emphasis added).

6. The bill of costs was delivered to the Respondent/client on 14th June, 2019 and interest is payable from 30 days such delivery which is 14th July, 2019.

7. The upshot of this is that Notice of Motion dated 08th August, 2019 succeeds and is allowed in the following terms:

a) Judgment is hereby entered for the advocate against the Respondent for Kshs. 40,225.40 (forty- thousand, two hundred and twenty -five and forty cents)

b) Interest shall be paid at 14% from 14th July, 2019 till payment in full

c) The Advocate will also have the costs of this application.

DATED, DELIVERED AND SIGNED ON THIS 09th DAY OF OCTOBER, 2019

T.W. CHERERE

JUDGE

Read in open court in the presence of-

Court Assistant - Amondi/Okodoi

For Applicant/Advocate - Ms Olonyi/Ms Onsongo

For Respondent/Client - N/A