



**REPUBLIC OF KENYA**

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

**(CORAM: CHERERE-J)**

**MISC. REFERENCE APPLICATION NO. 158 OF 2019**

**BETWEEN**

**PLATINUM CREDIT LIMITED.....APPLICANT**

**AND**

**DENNIS ACHEVI.....RESPONDENT**

**R U L I N G**

1. This is a reference from a decision made on 17<sup>th</sup> May, 2019 by the Taxing Officer on the Applicant's Party and Party bill of costs dated 08<sup>th</sup> May, 2019.

2. By a Chamber Summons dated 05<sup>th</sup> August, 2019 brought under Paragraph 11 (2) of the Advocates Remuneration Order, 2014, the Applicant's seeks the following orders: -

**1) That the decision of the Taxing Master made on 17<sup>th</sup> May, 2019 taxing the bill of costs dated 08<sup>th</sup> May, 2019 in the sum of Kshs. 47,735/- be set aside, reversed, reviewed and or otherwise varied**

**2) The court finds that the Taxing Master erred in taxing off Kshs. 70,000/- from item 1**

**3) Costs be awarded to the Applicant**

3. The motion is premised on the grounds on the body of the application and the supporting affidavit sworn by Richard Simbala on 05<sup>th</sup> August, 2019. Attachments to the affidavit include the pleadings in **WINAM SRMCC NO. 59 OF 2017**, the Applicant's bill of costs and the Taxing Master's decision on Taxation.

4. When the application came up for hearing on 03<sup>rd</sup> October, 2019, the Respondent though served neither filed a response nor attended court.

5. From the pleadings, it is apparent that the value of the subject matter was the unpaid sum of Kshs. 200,000/- and that is the basis for instructions fees which according to Schedule 7 is Kshs. 30,000/-.

6. I am well aware of the discretion given to the Taxing Officer in taxation matters under Section 27 of the Civil Procedure Act, 2010, and that this court should only interfere with that discretion if there is an error in principle, or if the sum arrived at was either so high or so low as to imply that the taxing officer applied the wrong principles.

7. I am satisfied that such is the case here. Accordingly, the applicant's Chamber Summons application dated 05<sup>th</sup> August, 2019 is allowed in the following terms:

**1) Instructions fees is enhanced to Kshs. 30,000/-**

**2) Costs shall be to the Applicant**

**DATED AND DELIVERED IN KISUMU ON THIS 17<sup>th</sup> DAY OF October 2019**

**T.W. CHERERE**

**JUDGE**

**Read in open court in the presence of-**

Court Assistant - Amondi/Okodoi -

For Applicant - N/A

For Respondent - N/A