

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MISC. APPLICATION NO. 71 OF 2018

WAIGANJO WACHIRA & COMPANY ADVOCATES.....APPLICANT

VERSUS

PACIS INSURANCE COMPANY LIMITED.....RESPONDENT

RULING

The applicant is a firm of advocates which filed a bill of costs against the respondent for taxation. The said bill was taxed and a ruling delivered by the taxing officer on 15th November, 2018. The respondent was aggrieved by the said ruling and lodged this application by way of chamber summons to have the said ruling set aside, and the bill of costs be subjected to taxation before a different taxing officer.

The application is brought under paragraph 11 (2) of the Advocate's (Remuneration) Order and Article 159 2(d) of the Constitution. It is opposed and grounds of objection were filed on behalf of the applicant/respondent. Both parties have filed submissions which I have read. Outstanding issues have been raised by the respondent relating to the said ruling in that the bill of costs was taxed at a figure that was beyond what was sought by the applicant. Further, the application of the relevant provisions in the Advocate's Remuneration Order, as relates to the procedure in ordinary suits has been cited as one of the issues that the taxing officer missed in the appreciation of the bill.

I have considered the submissions and the cited authorities on record. Without saying much, I am persuaded that this is an application that has met the threshold of setting aside the ruling of the taxing officer. I do not deem it necessary to delve any deeper than to set aside the said ruling in its entirety, and order that the bill of costs shall be subjected to fresh taxation before another taxing officer of competent jurisdiction.

Going by the age of the dispute, expedition of the process should be applied in this matter. The costs shall be in the cause.

Dated, signed and delivered at Nairobi this 7th Day of November, 2019.

A. MBOGHOLI MSAGHA

JUDGE