

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

CIVIL MISC. APPLICATION NO. 26 OF 2016

KEN MURIUKI & PETER KIRIMI MBOGO t/a

MURIUKI ADVOCATES.....APPLICANT

-VERSUS-

DEPUTY CLERK, ISIOLO COUNTY ASSEMBLY.....RESPONDENT

JUDGMENT

1. The applicant is a firm of Advocates who have taken out a Motion on Notice dated 18th October, 2017. In that Motion taken under **section 51 (2) of the Advocates Act**, the applicant seeks judgment for KShs.2,265,540/= against the respondent being the amount certified in the Certificate of Costs dated 21st September, 2016.

2. The grounds upon which the motion was predicated were that the Advocate/Client costs were taxed and a Certificate of Costs for KShs.2,265,540/= issued on 10th October, 2016. That the said Certificate has not been set aside or altered and that the sum certified has not been paid despite demand. Accordingly, the applicant sought for judgment for the said amount.

3. Mr. Muriuki who appeared for the applicant submitted that the Certificate of Costs had not been set aside and that although the motion was served upon the respondent, there was no opposition thereto.

4. I have considered the Motion and the submission of Learned Counsel. **Section 51 (2) of the Advocates Act** provides:-

“51 (2). 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 there by, 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. On record is an Advocate/Client bill of costs dated 22nd March, 2016. The same was taxed and a ruling delivered on 21st September, 2016 for KShs.2,265,540/=. Subsequently, the taxing officer of this court certified the costs at KShs.2,265,540/= on 21st September, 2016. That certificate has not been set aside or varied. All these facts are not controverted as the respondent did not file any response to the motion.

6. Accordingly, I find that the Motion is meritorious and the same is allowed as prayed with costs. Since no interest was prayed for, I will award none.

It is so ordered.

DATED and DELIVERED at Meru this 1st day of February, 2018.

A. MABEYA

JUDGE