



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL DIVISION

HIGH COURT CIVIL MISC APPL. NO. 346 OF 2017

OLANDO UDOTO & OKELLO ADVOCATES.....APPLICANT

VERSUS

MUNYOKI KITHEKA.....RESPONDENT

RULING

1. The application dated 12th September, 2018 seeks orders that the decision of the honourable Taxing Officer on the Applicant's Objection to the taxing of the Advocate-Client Bill of Costs dated the 7th August 2017 be set aside and its objections upheld.
2. The Applicant is dissatisfied with the ruling by the Taxing Master dated 27th July, 2018. It is contended that item 1, 7, 10, 11, 14 & 18 ought to have been taxed at higher amounts as per the Advocates Remuneration Order.
3. The application is opposed. It is stated in the replying affidavit that the case the subject matter of the Advocate/Client Bill the subject of this matter was settled by consent at Ksh.160,000/=. The Respondent is in agreement with the taxation by the Taxing Master.
4. I have considered the application, the response to the same and the submissions made.
5. The objection to the taxation dated 22nd August, 2019 is as follows:

1. Item 1 being instruction fees

The matter was defended and as such the applicable scale is the Higher Scale, thus the fees should be ksh.40,000/=.

2. Item 7, 10, 11, and 14

Schedule 7 (6) of the 2014 Remuneration, any attendance on Magistrate in Court, the stated amount is Ksh.1,400/= and not 1,100/=.

3. Item 18

Schedule 7(B) of the 2014 Remuneration is clear on the issue of Advocate and Client bill of costs.

Schedule 7(B) (a) it will be the fees prescribed in A above increased by 50%.

6. Schedule 7B of the Advocates (Remuneration) (Amendment) Order 2014 as amended by Gazette Supplement No.65 of 9th April, 2014 is applicable. The fees chargeable should be on the Higher Scale as there was a defence filed. There was settlement of the matter at ksh.160,000/= without going to a full trial. Therefore under Schedule 7(1) (b) the instruction fee chargeable is Ksh.40,000x75%=30,000/=.
7. Although the Taxing Master erred in calculating the figure at the sum of Ksh.30,000/= under the Lower Scale at Ksh.22,500/=, this was enhanced to a figure of Ksh.30,000/= after the Taxing Master took into account the conduct of the suit in that it had been transferred from the Industrial Court to the Chief Magistrate's Court.
8. The trial magistrate failed to increase the figure by 50% under Schedule 7 B(a) which increases the above figure by an additional sum of Ksh.15,000/=.

9. Item 7, 10, 11 & 14 are court attendances which under schedule 7(6) attracts a fee of Ksh.1,400/= per item. The trial magistrate therefore erred in applying Ksh.1,100/=. This was less by a total of Ksh.1,200/=

10. The objection is therefore sustained to the extent aforesaid. This comes to a total increase by Ksh.15,000/= + 1,200/= which is Ksh.16,200/=. The application having been partially successful, each party to bear own costs.

Dated, signed and delivered in Nairobi this 10th day of April, 2018

B. THURANIRA JADEN

JUDGE