



**REPUBLIC OF KENYA**

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

**MISC. CIVIL APPLICATION NO 141 OF 2016**

**K'OPOT & COMPANY ADVOCATES.....APPLICANT/ADVOCATE**

**VERSUS**

**CANELAND LIMITED.....RESPONDENT/CLIENT**

**JUDGMENT**

1. By a notice of motion dated 29th March, 2017; the applicant prays for orders:-

**a. THAT the Honourable Court be pleased to enter judgment and issue decree for the taxed costs of Kshs. 469,800.00**

**b. THAT the costs be provided for**

2. The motion is premised on the grounds on the body of the application and the supporting affidavit sworn on 29.3.17 by Stephen Aluoch K'opot, advocate of the High Court of Kenya in which he reiterates the grounds on the face of the application. Annexed to the affidavit is a certificate of costs dated 22nd March, 2017 arising from **KISUMU HCMISC.APPL NO. 74 OF 2001 CANELAND LIMITED VRS KENYA REVENUE AUTHORITY** and it is for the sum of Kshs. 469,800.00

3. When the application came for hearing on 18.4.18, the respondent though aware of the hearing date was not represented and did not oppose the application. There is therefore no dispute as to retainer.

4. 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.”***

5. There is no evidence to show when the bill of costs was served and that may explain why applicant is not seeking interest on the costs.

6. The upshot of this is that the notice of motion dated 27.3.17, succeeds and is allowed in the following terms:

***Judgment is hereby entered for the advocate against the Respondent for Kshs. 469,800.00***

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

**DATED, DELIVERED AND SIGNED ON THIS.....3rd.....DAY OF.....May.....2018**

**T.W. CHERERE**

**JUDGE**

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

Court Assistant - Felix

Applicant - N/A

Respondent - Mr. Anyumba