



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISUMU

MISC. CIVIL APPLICATION NO 40 OF 2015

OTIENO, RAGOT & COMPANY ADVOCATES....APPLICANT/ADVOCATE

VERSUS

GABRIEL NDOLO.....RESPONDENT/CLIENT

JUDGMENT

1. By a notice of motion dated 19.3.18, brought under Section 51 of the Advocates Act Cap 16 Laws of Kenya; the applicant prays for orders:-

a. THAT the certificate of costs dated 28.2.18 in respect of a taxation order made on 28.2.18 for the sum of Kshs. 158,591.40 be adopted as judgment and decree of this Honourable Court

b. THAT the applicant be awarded interest accrued on the costs at 14% per annum from 2.6.15 until payment in full

c THAT the costs of this application be borne by client/respondent

2. The motion is premised on the grounds on the body of the application and the supporting affidavit sworn by Maureen Alinaitwe, advocate of the High Court of Kenya, on 19.3.18. He avers that the client instructed the advocate to act in ***KISUMU CMCC 50 of 2006 Gabriel Okombo Ndolo & Anor v John Nadasaba***. That the bill of costs was taxed on 28.2.18 for the sum of Kshs. 158,591.40 and a certificate of taxation was issued for the said sum. That the client has not paid the said amount and the applicant requests for judgment for the entire sum.

3. When the application came for hearing on 9.5.18, the respondent though served, did neither appeared nor was he represented. The application is not opposed and 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. The rate of interest awardable is applicable from 30 days after the date of service of the Bill of Costs. There is evidence that the bill of costs was served on the respondent on 2.5.15. Consequently, (30) days from the delivery of the bill to the client expired on 2.6.15.

6. The upshot of this is that the notice of motion dated 19.3.18, succeeds and is allowed in the following terms:

a) Judgment is hereby entered for the advocate against the Respondent for Kshs. 158,591.40

b) Interest shall accrue on the taxed costs at 14% per annum from 2.6.15 until payment in full

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

DATED, DELIVERED AND SIGNED ON THIS 10th DAY OF May, 2018

T.W. CHERERE

JUDGE

Read in open court in the presence of-

Court Assistant - Felix

Applicant - Ms. Alinaitwe

Respondent - N/A