

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

MISCELLANEOUS CIVIL CASE NO 66 OF 2016

GITHINJI KIMAMO & CO. ADVOCATE.....APPLICANT

VERSUS

INVESCO ASSURANCE COMPANY LTD.....RESPONDENT

J U D G M E N T

1. Taxation proceedings in respect of the Advocate/Client bill filed on 8.12.16 proceeded exparte as the client did not attend, despite notice. By the ruling delivered on 16th May 2017 the Taxing Master taxed the Bill of Costs and issued a certificate of Taxation in the sum of KShs.56,269/=.
2. The Advocate/Applicant has by the chamber Summons filed on 13th March 2018 sought the adoption of the said certificate as a judgment of this court. In a replying affidavit, the Client/Respondent contends that they were not served with the Bill of costs and that the Applicant ought to file a suit for recovery of costs.
3. The record of proceedings and ruling by the Taxing Master clearly demonstrate that the Respondent had notice of the Bill of costs and the date of taxation. The objection taken by the Respondent therefore is not only unfounded but is also raised in the wrong forum. Section 51(2) of the Advocates Act provides that:

“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 thereby, 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”

4. The Respondent does not dispute the retainer, and has not applied to set aside the certificate. The Advocate Applicant is entitled to invoke the provisions of Section 51 of the Advocates Act in enforcing the certificate of costs. This court grants the application and enters judgment, with costs for the Applicant against the Respondent.

DELIVERED AND SIGNED AT KIAMBU THIS 2ND DAY OF NOVEMBER, 2018

C. MEOLI

JUDGE

In the presence of:

No appearance for Applicant

No appearance for the Respondent

Court clerk - Kevin