

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MISC. APPLICATION NO. 423 OF 2012

A.M. KIMANI & CO.ADVOCATES.....ADVOCATE/APPLICANT

VERSUS

KENINDIA INSURANCE CO. LIMITED.....CLIENT/RESPONDENT

RULING

The applicant is a firm of advocates which acted for the respondent in the provision of legal services at the instance of the respondent. Subsequent thereto the respondent withdrew instructions from the applicant. This was followed by the applicant's bill of costs which was taxed on 19th December, 2017 at the sum of Kshs. 87,678/=. Before then the applicant had raised a fee note and now there is an application by way of Notice of Motion under Section 51 of the Advocates Act and Order 50 Rule 1 of the Civil Procedure Rules seeking Judgment in the said sum plus interest at 14% per annum from 30th October, 2008 being the date a month after the delivery of the applicant's fee note to the respondent until 9th January, 2018 when the respondent made part payment.

The application is opposed and the respondent filed grounds of opposition which I have noted. This ruling is based on the material presented by both parties in the form of affidavits and grounds of opposition respectively.

There is a related application being Miscellaneous Application No. 422 of 2012 between the same parties on the same cause of action except the variance in figures claimed by the applicant against the respondent. The reasoning followed by the court, in that application apply in equal measure to this application. Considering the nature of that application, the cause of action therein and the prayers sought by the applicant as against the respondent I order that the said ruling shall apply to this application mutatis mutandis. That being the case, there shall be judgment in favour of the applicant against the respondent as prayed in the application dated 14th and filed on 25th May, 2018. The applicant shall also have the costs of this application based on the Advocates Remuneration Order.

Dated, signed and delivered at Nairobi this 5th day of December, 2018.

A. MBOGHOLI MSAGHA

JUDGE