



REPUBLIC OF KENYA

IN THE HIGH COURT AT MERU

MISC.CIVIL CASE NO.58 OF 2016

ARTHUR INGUTYA T/A

ARTHUR INGUTYA & CO. ADVOCATES.....APPLICANT

VERSUS

ISIOLO COUNTY GOVERNMENT.....RESPONDENT

RULING

Application dated 8th day of December 2016 was filed seeking orders that judgement be entered in favour of the applicant for the sum of Kshs. 2,873,289/- only being the sum of costs taxed by the taxing master; It was also sought that interests on the taxed costs be awarded at 14% per annum until payment in full. The application was based on the grounds inter alia that there is a duly executed certificate of costs and there is no dispute as to retainer and further that the certificate of costs had not been set aside.

The application was also supported by affidavit of the applicant Counsel in which he averred inter alia that the Respondent was represented by the firm of M/S Okubasu and Munene Advocates but despite being aware of the sum now due has failed to settle the same or part thereof.

Certificate of taxation was annexed. Applicant Counsel in submissions also relied on the authority of Kithi & Company Advocates vs Menengai Downs Ltd – High Court of Kenya at Nairobi Misc. Appl. No. 1069 of 2013 and Nderitu & Partners Advocates vs Mamuka Valuers (Management) Ltd- A Milimani High Court Commercial – Misc. App. NO. 463 of 2004 to support his claim.

From the Certificate of Costs signed by the Deputy Registrar, same was taxed on 16th November 2016 and Certificate made on 24th November 2016. On 12th January 2017 when application herein came up for hearing Mr Ojiambo Advocate holding brief for Mr. Okubasu requested for 21 days to respond to the application for reasons they were only served on 10th January 2017 when matter was due for hearing on 12th January 2017 less than the required 3 clear days notice.

The application for adjournment was allowed and they were given 30 days to respond to the application.

On 2nd March 2017, there was no appearance for the Respondents or their counsel who were aware of the hearing date and the application was therefore argued exparte.

In considerations that Respondents were given an opportunity to oppose the application and failed to do so, and being there is evidence that Costs were taxed against them and certificate issued, this court finds that Certificate of Costs having not been set aside or altered by the court and the retainer is not disputed, this court allows the application dated 8th December 2016 and enters judgment for the applicant in the

sum of Ksh. 2,873,289/- plus interest at 14% per annum from the date of taxation until payment is full. Costs of this application is also provided in favour of the applicant.

22.3.2017

Before Adwera-Ong'injo Judge

Penina – Court Assistant

Mr Otieno C Advocate Holding Brief for Mr Ingutya Advocate for Applicant.

M/S Okubasu & Munene Advocates for Respondents.

Court

Ruling Signed and Delivered in open court. Respondents to be notified by Applicants counsel.

A. ONG'INJO

JUDGE

22.3.2017