



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA, AT NAIROBI
ANTI-CORRUPTION & ECONOMICS CRIME DIVISION
ACEC MISC. APPLICATION NO. 49 OF 2017

MUTHAURA MUGAMBI AYUGI & NJONJO ADVOCATESADVOCATE/APPLICANT

VERSUS

FRANCIS SANYA MUSUMBI AGOYA CLIENT/RESPONDENT

RULING

1. The Applicant brought this Application dated 31st January, 2017 under Section 51 (2) of the Advocates Act, Order 51 (1) Civil Procedure Rules, 2010 and Sections 1A, 1B and 3A of the Civil Procedure Act seeking the following orders;

1. That this Honourable Court be pleased to enter judgment as against the Respondent for certified amount of Kshs.1,284,439.68 on the Certificate of Taxation herein dated 31st January, 2017.
2. That the said sum of Kshs.1,284,439.68 be paid with interest at the rate of 14% per annum from 26th April, 2016 which is the date of filing Bill of Costs herein, until payments in full.
3. That pursuant to the entry of judgment, hereinabove, a decree be issued.
4. That the costs of this application be provided for.

2. The Application is premised on the grounds on the face of the Application plus the supporting affidavit of **Angela C. Cheron** sworn on 31st January, 2017.

The gist of the grounds and supporting affidavit is that the applicant (a firm of advocates) duly represented the respondent in Nairobi Milimani Anti-Corruption Case No. 4 of 2013 – **Republic –vs- Francis Sanya Musumbi Agoya**.

3. After diligently discharging their duty, the Respondent failed to honour his part of the agreement which required him to pay the legal fees. The Applicant filed an Advocate-Client Bill of Costs on 26th April, 2016 and the same was taxed by the Deputy Registrar on 8th November, 2016, in the Applicant's favour. The said Bill was taxed in the sum of Kshs.1,284,539.68 only.
4. A certificate of Taxation dated 31st January, 2017 was issued by the Deputy Registrar.

Section 51 (2) of the Advocates Act provides;

“2. 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 judgment be entered for the sum certified to be due with costs”

The term “*court*” as used in the Act means the *High Court*.

5. Despite service of the Notice of Motion and the Hearing Notice, the Respondent has not filed any response to the Application to challenge the averments therein. He did not also attend the hearing.

6. Since the taxation and the resultant Certificate of Taxation have not been challenged, or set aside, it follows that the Certificate of Taxation stands.

The Applicant has averred that the taxed bill of Kshs.1,284,439.68 has not been settled. There is no evidence showing the contrary.

7. I therefore allow the Application dated 31st January, 2017 in terms of prayers 1, 2, 3 and 4.

Interest shall be at Court rates.

Delivered, signed and dated this 10th day of ***May***, 2017 at ***Nairobi***.

.....

HEDWIG I. ONG’UDI

HIGH COURT JUDGE