

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MISCELLANEOUS CIVIL APPLICATION NO. 145 OF 2011

KWENGU & COMPANY ADVOCATES.....PLAINTIFF

VERSUS

INVESCO ASSURANCE COMPANY LTD.....DEFENDANT

AND

1. EQUITY BANK LIMITED

2. DIAMOND TRUST BANK KENYA LIMITED

3. CO-OPERATIVE BANK LIMITED.....GARNISHEES

RULING

1. This court (Justice Hatari Waweru) on 25th February, 2013 ordered the Defendant to deposit the decretal sum to the tune of KShs. 1.4 Million in a joint interest earning account in the names of the advocates on record for the Plaintiff and the Defendant. That upon such deposit being made, the garnishee order nisi shall stand discharged.

2. When this matter came up for mention on 4th May, 2015, Mr. Njenga learned counsel for the Plaintiff confirmed that money had been deposited in the said account and that the garnishee should be discharged. At the time an Electronic Fund Transfer had not been received by the Garnishee. When the matter came up for mention again on 8th July, 2015, learned counsel appearing in the matter confirmed that the money had been received and that the garnishee should be discharged. Mr. Kisinga, learned counsel for the 2nd Garnishee however prayed for costs of KShs. 40,000/= which was not objected to.

3. Any party dragged to court by another if he/she succeeds is entitled to recover costs incurred in defending the claim. The Advocates (Remuneration) Order, 2011 at Paragraph 5 Section 14 (b) provides for costs of not less than KShs. 25,000/= for defending garnishee proceedings. In light of this provision, the tasks involved herein and the consent of the parties, I find that the said sum is reasonable. The 2nd garnishee therefore shall have costs of KShs. 40,000/=.

Dated, Signed and Delivered in open court this 10th day of July, 2015.

J. K. SERGON

JUDGE

In the presence of:

..... for the Plaintiff

.....for the Defendant

.....for the 2nd Garnishee