

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MISC. CIVIL APPL. NO. 692 OF 2014

MWANIKI GITAU & COMPANY ADVOCATES.....APPLICANT

VERSUS

FREDRICK MWIKYA MUSYIMI.....RESPONDENT

RULING

1. The subject matter of this ruling is the motion dated 20th March 2015 in which Joseph Mwaniki Gitau P/A Mwaniki Gitau & Co. Advocates is seeking for an order entering judgement in his favour in terms of the taxed bill. The motion is supported by the affidavit of Joseph Mwaniki Gitau sworn on 20.03.2015. The motion was served upon Fredrick Mwikya Musyimi as evidenced in the affidavit of service sworn by Teresiah W. Njoki on 29.07.2015.
2. The motion did not attract any response from Fredrick Mwikya Musyimi, thus the same proceeded for hearing exparte.
3. It is the submission of the applicant/advocate that he was instructed by the Respondent/client to institute a compensatory suit to claim damages arising from a road traffic accident. Pursuant to the client's instructions, the applicant argued that he filed Kithimani RMCC no. 250 of 2006 which he later abandoned in favour of Nairobi H.C.C.C no. 86 of 2008. At the conclusion of the trial, the Respondent/client did not pay the Applicant legal fees prompting the Applicant to have the advocate-client bill of costs to be taxed before the Deputy Registrar. In the end the bill was taxed at kshs.653,874/60 as per the certificate of taxation dated 24.02.2015.
4. I have taken into account the material placed before this court plus the oral submissions of the Applicant's learned counsel. It is not in dispute that the Applicant was given instructions by the Respondent to institute a suit(s). It is also not in dispute that the bill of costs was taxed and I have seen no evidence of any appeal filed against the taxed costs. There is no objection to the motion. I find the same to be well founded.
5. The same is allowed as prayed. Consequently judgement is entered in favour of the Applicant/Advocate and against the Respondent/client in the sum of kshs.653,874/60 in terms of Section 51(1) and (2) of the Advocates Act.

Dated and delivered in open court this 1st day of September 2015

J. K. SERGON

JUDGE

In the presence of:

..... for the Plaintiff

.....for the Defendant