



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISUMU
MISC. CIVIL CAUSE NO. 209 OF 2013
IN THE MATTER OF AN ADVOCATE – CLIENT BILL OF COSTS
BETWEEN
OTIENO, RAGOT & CO. ADVOCATESAPPLICANT/ADVOCATE
AND
KENINDIA ASSURANCE COMPANY LIMITED RESPONDENT/CLIENT
Arising from
Kericho HCCA No. 22 of 2010
PAUL OTIENO OMONDI PLAINTIFF
VERSUS
EVERLINE AOKO NDOLO DEFENDANT

RULING

Before me is the Advocate/Applicant's Notice of Motion dated 7th May 2014 seeking orders:-

1. That the certificate of costs dated 8.4.2014 in respect of the taxation order made on 8.4.2014 for the sum of Kshs.368,032.19/= (Kenya Shillings Three Hundred and Sixty Eight Thousand, and Thirty Two and Nineteen Cents) be adopted as Judgment and decree of this Honourable Court, together with interest thereon at 14% per annum from 8.4.2014 until payment in full.
2. That the cost of this application be borne by the Respondent/Client.

The Respondent/Client filed Grounds of Opposition dated 28th October 2014 to the effect that:-

1. **THAT** the application is bad in law, frivolous, vexatious and constitutes an abuse of the Court process.
2. **THAT** the application is misplaced, incompetent, and goes against the mandatory provisions of the law.

3. THAT the application lacks in merit and ought to be dismissed at the first instance with costs to the respondent having fallen short of the requirements of the Advocates Act.

When parties appeared before me on 27th May 2014 they agreed to canvass the application by way of written submissions but despite reminders those of the Client/Respondent were never received. I have however fully considered those of the Advocate/Applicant as well as the grounds of opposition.

Section 51(2) of the Advocates Act provides as follows:-

"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 that judgment be entered for the sum certified to be due with costs."

In the instant case the retainer is not disputed and there is no reference in regard to the decision of the taxing officer. The grounds of opposition filed are, with due respect hollow and do not afford any opposition to this application.

Accordingly judgment is entered in terms of the Certificate of Costs – a sum of Kshs.368,032/19 with interest at 14% per annum from 28th May 2014 (30 days from the date of the Certificate of Costs) until payment in full. The costs of this application be borne by the Client/Respondent. It is so ordered.

Signed, dated and pronounced at Kisumu this 14th day of October, 2015

E. N. MAINA

JUDGE

In presence of:

Miss Alinaitwe for the Applicant

Mr. Onsongo for Aron for the Respondent

CC: Felix Magutu