



REPUBLIC OF KENYA

IN THE ENVIRONMENT & LAND COURT AT KITALE

ELC MISC. APPL. NO. 5 OF 2020

SIFUNA & SIFUNA CO. ADVOCATES.....APPLICANT

VERSUS

THE COUNTY GOVERNMENT OF

TRANS NZOIA.....RESPONDENT

RULING

1. This is an application by way of Notice of Motion dated **3rd March 2020** seeking that this court be pleased to enter Judgment and issue a Decree for the sum of **Kshs. 447,504/=** being the applicant's taxed costs in **Kitale Environment & Land Case No. 66 of 2013** as per the Certificate of Costs dated **30/9/2019** issued in **Kitale Environment & Land Court Misc. Civil. Application No. 15 of 2019**.

2. In support of the application the Advocate/Applicant relies on the grounds on the face of the application being inter alia: -

*(i) THAT five plaintiffs filed a land case Kitale Environment & Land Case No. 66 of 2013 against the Respondent.*

*(ii) THAT the applicant law firm was instructed to represent the Respondent.*

*(iii) THAT on those instructions the applicant's filed a Defence for the Respondent and thereafter represented it in the suit.*

*(iv) THAT after the suit ended, the filed an Advocate-Client Bill of Costs for Advocates Fees vide Kitale Environment and Land Court Misc. Civil Application No. 15 of 2019 wherein the Bill was taxed by the Deputy Registrar of this court as the sum of Kshs. 805,504/= less the sum of Kshs. 358,000/= already paid by the Respondent.*

*(v) THAT the said Deputy Registrar thereafter issued a Certificate of Costs dated 30/9/2019 for the said taxed costs.*

3. The Application is supported by supporting affidavit of Prof. Nixon Sifuna, Advocate, practicing in the firm of the Advocate/Applicant in which he reiterates the contents of the grounds in the application.

4. The Respondent did not file any response to the application despite having been served with the application.

5. I have considered the application, the oral submissions by the advocate and the authorities supplied to court in support of the application.

6. There is evidence that the respondent was served with the present application but did not respond to it. The respondent did not also attend court during the hearing. I note that the advocate/client bill of costs was taxed and a certificate of costs issued on 30/9/2019.

7. **Section 51 of the Advocates Act** provides as follows:

**“(1) Every application for an order for the taxation of an advocate's bill or for the delivery of such a bill and the delivering up of any deeds, documents and papers by an advocate shall be made in the matter of that advocate.**

**(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 that judgment be entered for the sum certified to be due with costs.”**

8. From the above provision, **Subsection (2)** is clear that the certificate of costs once issued by the Taxing Officer is final unless set aside or

altered by the court. In the instant case, the certificate of costs was not challenged and therefore I allow the application dated **3rd March 2020** in the following terms:

**(a) Judgment is hereby entered against the respondent in favour of the applicant for Kshs. 447,504/= as more particularly ascertained by the Taxing Officer of this Court and contained in the certificate of taxation dated 30th September 2019.**

**(b) Costs of this application shall be paid by the respondent to the applicant.**

**(c) Interest at court rates on (a) and (b) above from the date of this ruling shall be paid to the applicant by the respondent.**

It is so ordered.

**Dated, signed and delivered at Kitale via electronic mail on this 19th day of November, 2020.**

**MWANGI NJOROGE**

**JUDGE, ELC, KITALE**