



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**ENVIRONMENT AND LAND DIVISION**

**MISC. 35 OF 2014**

**ZACHARIA BARASA.....PLAINTIFF**

**=VERSUS=**

**DUBAI BANK KENYA LIMITED .....DEFENDANT**

**RULING**

The matter herein for consideration arise out of an application for *Auctioneer's Bill of Costs*, dated **14<sup>th</sup> January 2014**. The Bill of costs arise out of instructions dated **13<sup>th</sup> March 2013**, to redeem various charged properties belonging to *Kwanza Estates Ltd* located in *Mombasa* and *Malindi* for purposes of recovering of **Kshs.200,185,051/98** owed to *Dubai Bank of Kenya Ltd*.

The appellant sent out a Notice of Taxation dated **11<sup>th</sup> February 2014**. The Bill was taxed by the Deputy Registrar and through a Ruling delivered on **17<sup>th</sup> April 2014**, and the same Bill was taxed at **Kshs.14,695/=**. The appellant had sought for **Kshs.2,043,563/54** as his Bill of Costs.

Upon delivery of the Ruling on **17<sup>th</sup> April 2014**, the appellant was dissatisfied with the same and filed this Appeal. The Respondent had submitted that the Application herein is bad in law as the law governing such taxation is the Advocates Remuneration Act and not the Auctioneers Act and Rules 1997. However, I noted that the initial taxation before the Deputy Registrar was done under the Auctioneers Rules. I do find and hold that the application herein is properly brought under **Rules 55 (c) & 55 (2) of the Auctioneers Rules**. The application is also brought as an appeal as provided by **Rule 55(4) of the Auctioneer Rules** and it is properly titled Chamber Summons.

On the merit of the application. I will adopt my findings in Misc No.36 of 2014 brought by the applicant herein. The Court herein adopts the findings and reasoning in the Ruling of Misc. No.36 of 2014 and finds that this application has no merit. The same is dismissed with costs to the Respondent.

**Dated and Delivered this 29<sup>th</sup> day of June 2015.**

It is so ordered.

**L GACHERU**

**JUDGE**

*In the Presence of:-*

Mr Manjau holding brief for Mr Khakula for the Appellant/Applicant

Mr Tebino for the Respondent

Hilda: Court Clerk

**Court:**

Ruling read in open Court in the presence of the above advocates.

**L.GACHERU**

**JUDGE**