

REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: T.S.LUVUGA, DEPUTY REGISTRAR (IN CHAMBERS))

CIVIL APPLICATION NO. NAI. 308 OF 1998 (UR.120/98)

BETWEEN

DAVID IRUNGU NDEGWA T/A CITY MERCHANTAPPLICANT

AND

GILBER JOSEPH KIBERESPONDENT

**(An application for stay pending an Appeal from the Order of the High Court of Kenya at Nairobi
(Justice O'Kubasu) dated 3rd December, 1998**

in

H.C.C.C. NO. 6542 OF 1991)

RULING ON TAXATION

E. K. Mutua, Esq. Advocate was served with a notice of taxation for hearing today on 20th August, 2002. He had earlier appeared for the hearing of the application and the settling of terms of the order.

He has not withdrawn from representing the applicant. He has therefore decided to ignore the hearing of this matter before me today.

Having listened to the counsel for the respondent and taking into account the factors in this application, I am of the view that the amount of Kshs.75,340/= charged on item 1 of the bill of costs is on the higher side. The application was for stay of execution. The applicant had not obtained leave of the High Court to appeal. The application was therefore struck out by the Court on preliminary objection.

In exercise of my discretion therefore, I consider a sum of Kshs.20,000/= as reasonable in the circumstances of this application which I allow. Kshs.45,340 is therefore taxed off from item 1 of the bill. Item 6 and 7 of the bill of costs were disallowed by the consent of the respondent's counsel.

In the result, the bill of costs filed in Court on 19th April, 2002 is taxed at Kshs.26,750/= which is added a sum of Kshs.1,337/50 making in all Kshs.28,087/50.

Dated and delivered at Nairobi this 15th day of October, 2002.

T. S. LUVUGA

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DEPUTY REGISTRAR

I certify that this is a true copy of the original.

DEPUTY REGISTRAR