

REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI
CORAM: LUVUGA, D.R. (IN CHAMBERS)
CIVIL APPLICATION NO. NAI 235 OF 1996 (83/96 UR)
BETWEEN

JOHN KIMANI NJONGE
KIMANI WAWERU
MUIKAMBA
KINYANJUIAPPLICANTS

AND

BORO KINYUA
GEORGE GITHAE NDING'URI
ALLAN MUTHAMA
NDING'URI MIGWI
KARANJA NJOROGE
ABRAHAM WANGAI
WACHIRA
NDING'URIRESPONDENTS

(Application for stay of execution in a intended appeal from a ruling of the High Court of Kenya at
Nairobi (Bosire J) dated 15th November, 1995

in

H.C.C.C. NO. 1741 OF 1995)

RULING ON TAXATION

The taxation before me arises out of an application which was withdrawn in Court on 2.5.1997. The application was for stay of execution. Mr Mwangi, counsel for the respondents, submitted that the matter involved great public importance.

It also involved taking instructions from the respondents and other members of the public and the same was heard for two days being withdrawn on the last day of hearing.

I have perused the record and read the notes of the proceedings in court. On 24.10.96 when the application first came for hearing, the same was adjourned and stood over generally and on 2.5.97 the application was withdrawn. It is clear therefore, that at no time the application was heard on merits though I take note that it was withdrawn in court.

Taking all the facts in this application into consideration, I am satisfied that the amount of KShs.420,000/= claimed on item one of the bill is far much excessive and cannot be said to be reasonable. I consider a sum of KShs.20,000/= to be reasonable which I award and tax off KShs.400,000/= from this item. All other items have been considered and taxed.

In the result, the bill of costs filed by the Advocates for the respondents on 22.8.97 is taxed at KShs.20,945/= which is to be added a sum of KShs.210/= taxing fee making in all KShs.21,155/=. Since more than the quarter of the profit costs claimed is disallowed it follows that items 26, 27 of the bill including the attendance before me is disallowed.

Dated at Nairobi this 8th day of February, 2000.

T. S. LUVUGA

DEPUTY REGISTRAR

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

DEPUTY REGISTRAR