



**Rop v County Secretary, County Government of Bomet & 2 others (Petition
71 of 2018) [2022] KEELRC 12981 (KLR) (26 October 2022) (Ruling)**

Neutral citation: [2022] KEELRC 12981 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
PETITION 71 OF 2018
S RADIDO, J
OCTOBER 26, 2022
IN THE MATTER OF ARTICLES 21, 22, 23(3),
27, 28, 35, 41, 47, 48 AND
50(2) OF THE
CONSTITUTION OF KENYA,
2010, FOR ENFORCEMENT
OF FUNDAMENTAL RIGHTS
AND FREEDOMS
AND
IN THE MATTER OF ALLEGED CONTRAVENTION
OF RIGHTS AND
FUNDAMENTAL FREEDOMS
UNDER ARTICLES 10, 21,
22, 23(3), 27, 28, 35, 41,
47, 48 AND 50(2) OF THE
CONSTITUTION OF KENYA,
2010
AND
IN THE MATTER OF THE FAIR ADMINISTRATIVE
ACTION ACT
AND
IN THE MATTER OF THE EMPLOYMENT
ACT



BETWEEN

MAJOR (RTD) JOEL KIPRONO ROP PETITIONER

AND

**COUNTY SECRETARY, COUNTY GOVERNMENT OF BOMET 1ST
RESPONDENT**

COUNTY PUBLIC SERVICE BOARD, BOMET COUNTY 2ND RESPONDENT

COUNTY GOVERNMENT OF BOMET 3RD RESPONDENT

RULING

1. The petitioner's costs, as awarded by the court, were taxed on May 17, 2022, and a certificate of taxed costs was issued on May 26, 2022.
2. The respondents were not satisfied with the taxation, and they requested for the reasons from the taxing officer through a letter dated May 20, 2022.
3. The taxing officer responded on June 7, 2022, indicating that she had given the reasons in the ruling of May 17, 2022.
4. On June 13, 2022, the petitioner lodged a motion with the court seeking orders:
 - (a) That this honourable court be pleased to convert the certificate of costs dated on May 26, 2022 into a decree and judgment together with interest at 14% per annum as from May 26, 2022 until payment in full.
 - (b) That costs of this application be awarded to the applicant.
5. The grounds in support of the motion were that the respondents had failed to satisfy the costs despite service of the certificate of taxed costs and that no reference had been filed.
6. The petitioner filed submissions on the motion on June 29, 2022 in which recourse was taken to section 51(2) of the *Advocates Act* and *Kisumu High Court Misc Application No 84 of 2016, Otieno Yogo & Co Advocates v Kisumu Water & Sewerage Co Ltd* and *Lubullelah & Associates v NK Brothers Ltd (2014) eKLR*.
7. The petitioner also asserted that he was entitled to interest because he had delivered the certificate of costs to the respondents through a letter received on June 3, 2022, and 30 days had lapsed without payment.
8. The petitioner drew the attention of the court to rule 7 of the *Advocates Remuneration Order*.
9. The respondents filed grounds of opposition to the motion on July 13, 2022, contending that a certificate of costs was a final order not warranting any further orders for enforcement.
10. The respondents also filed a chamber summons under rule 11 of the Advocates Remuneration Rules, seeking to set aside the taxation or a re-taxation thereof (the petitioner filed a replying affidavit to the summons on October 14, 2022).



11. According to the respondents, the taxing officer had applied the wrong principles in arriving at instruction fees nor exercised her discretion correctly. It was also contended that the chamber summons was filed timeously.
12. Under rule 11 of the Advocates Remuneration Rule, the respondents should have filed a reference objecting to the taxation within 14 days of the ruling.
13. The summons objecting to the taxation were filed more than 14 days after the ruling, without leave, and only in response to the petitioner's motion.
14. The filing of the summons must have been an afterthought and meant to delay payment of the costs.
15. There is no dispute that the respondents were aware of the taxation and consequent certificate of taxation.
16. They have not given any sufficient reason why they have not satisfied the certificate.
17. The petitioner sought interest on the costs and cited rule 7 of the Advocates Remuneration Rules. In the court's view, the rule applies to an advocate/client bill of costs, not a party-to-party bill of costs.
18. The court will, therefore, allow the motion but without interest.
19. The petitioner to have costs of the motion.

DELIVERED VIRTUALLY FROM VOI, DATED AND SIGNED ON THIS 26TH DAY OF OCTOBER 2022.

Radido Stephen, MCI Arb

Judge

Appearances

For Petitioner P Sang & Co Advocates

For Respondents Omondi, Abande & Co Advocates

Court Assistant Chrispo/ Everlyne

