



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR

RELATIONS COURT AT NAIROBI

MISCELLANEOUS APPLICATION NO. 8 OF 2018

BETWEEN

GITHINJI KIMAMO & COMPANY ADVOCATES.....ADVOCATE / APPLICANT

AND

ENDMOR STEEL MILLERS LTD.....CLIENT/ RESPONDENT

RULING

1. The Applicant seeks Judgment against the Respondent, for the sum of Kshs. 126,815. The sum arises from an Advocate/ Client Bill of Costs, which has been taxed by the Deputy Registrar of this Court. Certificate of Taxation issued. Taxation took place on 5<sup>th</sup> July 2018. Certificate of Taxation is dated 7<sup>th</sup> August 2018. The Applicant states there is no dispute on the retainer. Certificate of Taxation has not been set aside.

2. The Respondent opposes the Application. Its position is that retainer has always been in dispute, and the Applicant ought therefore, to have filed a full blown Claim. Judgment cannot be given based on a Miscellaneous Application. The Respondent submits it has not been served with the Certificate of Taxation, and interest sought at the rate of 14% per annum, is punitive. The Respondent urges the Court to dismiss the Application with costs.

**The Court Finds:** -

3. There is no retainer dispute, apparent on the face of the record. The Applicant was instructed by the Respondent to defend Industrial Cause Number 436 of 2014, brought against the Respondent by its former Employee. The Applicant subsequently filed Memorandum of Appearance dated 9<sup>th</sup> April 2014. Pleadings were filed, as were Documents supplied by the Respondent to the Court. The Applicant acted on the instructions of the Respondent.

4. The Advocate/ Client Bill of Costs was taxed. Certificate of Taxation issued. The Respondent has been aware about this, for the last over 2 years. There is nothing to be heard on a full trial.

**IT IS ORDERED:** -

*a. Judgment is entered for the Advocate / Applicant, for the sum of Kshs. 126,815.*

*b. Interest allowed at the rate of 14% per annum, from 5<sup>th</sup> July 2018, till payment is made in full.*

*c. Costs of the Application to the Advocate / Applicant.*

Dated and delivered at Nairobi, this 11<sup>th</sup> day of February 2021.

James Rika

Judge