



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT KISUMU

MISC APPLICATION NO. 37 OF 2020

IN THE MATTER OF ADVOCATE REMUNERATION ORDER

AMONDI & CO ADVOCATESADVOCATE/APPLICANT

VERSUS

COUNTY GOVERNMENT OF KISUMUCLIENT/RESPONDENT

ARISING FROM EMPLOYMENT AND LABOUR RELATIONS COURT PETITION NO. 36 OF 2017

SAMUEL OKURO1ST PETITIONER

SAMUEL ONDOLA.....2ND PETITIONER

JACOB MUGA.....3RD PETITIONER

GEORGE AKONGO..... 4TH PETITIONER

CEPHAS KASERA.....5TH PETITIONER

DEREK OBURA..... 6TH PETITIONER

GEORGE KOYIER.....7TH PETITIONER

SELINE ODHIAMBO BONYO.....8TH PETITIONER

VERSUS

KISUMU COUNTY PUBLIC SERVICE BOARD.....1ST RESPONDENT

H.E. PROF PETER ANYANG NYONGO..... 2nd RESPONDENT

RULING

1. The County Public Service Board, Kisumu and the County Government of Kisumu retained the firm of Amondi & Co. Advocates (the advocate) to represent them in Kisumu Petition No. 36 of 2018, *Samuel Okuro & Ors v County Public Service Board, Kisumu & Ar.*
2. In a judgment delivered on 7 November 2017, the Court found for the Petitioners and directed that the costs be borne personally by the Governor, County of Kisumu (the Court of Appeal reversed the costs order against the Governor).
3. The advocate then filed an advocate/client bill of costs which was taxed at Kshs 1,138,442/50 and a Certificate of Costs issued on 6 May 2021.

4. On 14 June 2021, the advocate filed a Motion seeking an order that the Certificate of Costs be adopted as a judgment/decreed of the Court, together with interest from 6 August 2020.
5. On the same day, the advocate filed submissions in support of the Motion (Respondents purportedly filed Grounds of Opposition to the Motion on 8 June 2021).
6. In his submissions, the advocate stated that the bill of costs was served upon the Respondents on 12 August 2020 and that interest was sought therein at 14% p.a.
7. Pursuant to directions given on 17 June 2021, the Respondents filed their submissions on 6 July 2021, in which it was urged that by dint of section 26 of the Civil Procedure Act and since a decree had not been extracted, the question of interest was premature or was not payable.
8. The Respondent further asserted that it was not clear when the advocate submitted to them the bill of costs to enable the Court to ascertain when interest would start to accrue.
9. The Court has considered all the material placed before it.
10. The supporting affidavit to the initial Motion filed in Court on 4 August 2020 did not disclose when the advocate furnished the Respondent who was ordered to bear the costs of the Petition with the bill of costs. It appears that the bill of costs was only served upon the Respondents after it had been filed in Court.
11. In terms of Rule 7 of the Advocates Remuneration Order, the advocate would not be entitled to interest on the taxed costs for failure to demonstrate a condition precedent to an award of interest and the Court so finds.
12. Consequently, the Court will only allow the Motion to the following extent:
 - (a) The Certificate of Costs in respect of the taxation order made on 24th February 2021 for the sum of Kenya Shillings One Million one hundred and thirty-eight thousand four hundred and forty-two and fifty cents only (1,138,442/50) is hereby adopted as judgment of the Honourable Court.
13. Costs of the Motion to the advocate.

DELIVERED THROUGH MICROSOFT TEAMS, DATED AND SIGNED IN KISUMU ON THIS 15TH DAY OF DECEMBER, 2021

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For applicant Amondi & Co. Advocates

For Respondent Omondi, Abande & Co Advocates

Court Assistant Chrispo Aura