



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU**

**MISC APPLICATION NO. 36 OF 2020**

**IN THE MATTER OF ADVOCATE REMUNERATION ORDER**

**AMONDI & CO ADVOCATES.....ADVOCATE/APPLICANT**

**v**

**COUNTY GOVERNMENT OF KISUMU....CLIENT/RESPONDENT**

**ARISING FROM EMPLOYMENT AND LABOUR**

**RELATIONS COURT PETITION NO. 4 OF 2018**

**KISUMU COUNTY PUBLIC SERVICE BOARD..1<sup>st</sup> PETITIONER**

**COUNTY GOVERNMENT OF KISUMU.....2<sup>nd</sup> PETITIONER**

**v**

**NASHON W OGUYA.....1<sup>st</sup> RESPONDENT**

**BETTY ASUNAH.....2<sup>nd</sup> RESPONDENT**

**MOSES ONDIEK ODINDO.....3<sup>rd</sup> RESPONDENT**

**JACKSON ODENY OYOO.....4<sup>th</sup> RESPONDENT**

**VIOLET SALLY ONYANGO.....5<sup>th</sup> RESPONDENT**

**EMILY OLAGO.....6<sup>th</sup> 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. 4 of 2018, *County Public Service Board, Kisumu & Ar v Eng Nashon W.O. Oguya & Ors.*
2. In a judgment delivered on 20 September 2018, the Court dismissed the Petition.
3. The advocate then filed an advocate/client bill of costs which was taxed at Kshs 1,820,405/33, and a Certificate of Costs issued on 6 April 2021.
4. On 14 June 2021, the advocate filed a Motion seeking an order that the Certificate of Costs be adopted as a judgment/decree of the Court.
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 11 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 Respondents with the bill of costs. In fact, 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 the 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 24<sup>th</sup> February 2021 for the sum of Kenya Shillings One Million eight hundred and twenty-four thousand four hundred and fifty-five and thirty-three cents only (1,820,405/33) is hereby adopted as a judgment of the Honourable Court.

13. Costs of the Motion to the advocate.

**DELIVERED THROUGH MICROSOFT TEAMS, DATED AND SIGNED IN KISUMU ON THIS 15<sup>TH</sup> DAY OF DECEMBER 2021.**

**Radido Stephen, MCI Arb**

**Judge**

**Appearances**

For applicant Amondi & Co. Advocates

For Respondent Omondi, Abande & Co Advocates

Court Assistant Chrispo Aura