



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT & LABOUR RELATIONS COURT**

**AT KISUMU**

**CAUSE NO. 301 OF 2013**

*(Before Hon. Justice Mathews N. Nduma)*

MERCYLINE MAKUNGU.....1<sup>ST</sup> CLAIMANT

ROSEMARY CHEROP.....2<sup>ND</sup> CLAIMANT

VIOLET YANDUNYI EVAYO.....3<sup>RD</sup> CLAIMANT

JACKSON AKAVEGA.....4<sup>TH</sup> CLAIMANT

PHOEBE JELAGAT MARU.....5<sup>TH</sup> CLAIMANT

=VERSUS=

BINSCAPE LIMITED.....RESPONDENT

**R U L I N G**

1. The Applicant prays that there be a reference to this court from the taxation by the Deputy Registrar as a taxing master of this court and the court be pleased to hear the objection by the Applicant on taxation of bill of cost dated 3<sup>rd</sup> October, 2017 given on 6<sup>th</sup> December, 2017 and make decision on items 1 to 42 and the total cost of Kshs.673,425 awarded by the taxing master be reviewed.
2. The grounds for the objection are that the taxation was done ex parte and in disregard of the express judgment by the trial Judge that *“The Respondent shall pay Claimant’s costs limited to instructions fees and 2 attendances only as there was no hearing, the parties having proceeded by way of written submissions.”*
3. There was no application to review the Judgment of the court with regard to the award of costs nor has there been any appeal to the Court of Appeal by the Claimant on the limited award of costs.
4. It is clear therefore that the bill of costs must be limited to the instructions fee in the sum of Kshs.375,000 as per Claimants bill of Cost filed on 4<sup>th</sup> October, 2017 and two court attendances on 29<sup>th</sup> April, 2014 and 24<sup>th</sup> May, 2016 in the sum of (7,100 x 2) respectively.
5. The rest of the taxed bill of costs is set aside as was taxed in disregard of the Judgment by the trial judge.
6. The claimant is therefore awarded costs in the sum of Kshs.389,200.

**Ruling Dated, Signed and delivered this 12th day of April, 2018**

**Mathews N. Nduma**

**Judge**

**Appearances:-**

Ms. Chesol for Claimant

Mr. Sutel for Respondent

Chrispo – Court Clerk