



REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS COURT OF KENYA

AT NYERI

SUIT NO. 179 OF 2016

ROSSLYN NJOKI KAMAU.....CLAIMANT/RESPONDENT

VERSUS

EMOMENTUM INTERACTIVE

SYSTEMS LIMITED.....RESPONDENT/APPLICANT

RULING

1. The Respondent seeks through the Notice of Motion application dated 29<sup>th</sup> August 2018 for a stay of the proceedings and/or execution particularly the proceedings that are consequential to the taxation of the Bill of Costs dated 21<sup>st</sup> December 2017 culminating in the ruling of the taxing master on 3<sup>rd</sup> August 2018. The Respondent also sought stay of the issuance of the Certificate of Taxation consequent to the taxation of the Bill of Costs and if the certificate has been issued, the court to stay all consequential proceedings particularly the execution thereof.

2. The Claimant is opposed and asserts that the Respondent has misapprehended the law and filed a review and not a reference of taxation under Schedule. The Claimant argues that the motion is defective and devoid of merit.

3. The motion is not in keeping with a reference to taxation as it seems to be couched as an appeal against the taxation. Be that as it may, the court has treated it as a reference to taxation taking issue with the matter of instruction fees and the entire taxation. I have read the Ruling of the taxing master and the bill of costs attached. In matters of taxation and a reference such as this, a court hearing the reference must warn itself that the decision of the taxing master can only be interfered with where there is a principle error in the taxation giving rise to the reference. In the case of **Kipkorir, Titoo & Kiara Advocates v Deposit Protection Fund [2005] eKLR** it was stated by the court that the taxing officers decision cannot be interfered with unless it can be shown to have been on a principle error. This position was reiterated in the case of **Nyangito Co. Advocates v Ndoinyo Lessos Creameries Ltd [2014] eKLR**. Having so warned myself, I proceed to determine the reference before me.

4. I do not discern any error in principle by the Taxing Master in the matter before me. She did not take into account any extraneous matter and treated each item on the bill as she ought to disallowing some entirely, taxing off the bill as appropriate. I therefore find no merit in the motion before me and I dismiss it with costs to the Claimant. The Taxation Certificate issued on 24<sup>th</sup> August 2018 may be applied as required in the ensuing execution.

It is so ordered.

**Dated and delivered at Nyeri this 11<sup>th</sup> day of December 2018**

**Nzioki wa Makau**

JUDGE