



**REPUBLIC OF KENYA**  
**EMPLOYMENT AND LABOUR RELATIONS COURT**  
**AT NAIROBI**  
**CAUSE NO. 459(N) OF 2009**

(Before Hon. Lady Justice Hellen S. Wasilwa on 19<sup>th</sup> January, 2017)

SAMUEL MOYAKI..... CLAIMANT/RESPONDENT

VERSUS

CATERING & TOURISM DEVELOPMENT

LEVY TRUSTEES..... RESPONDENT /APPLICANT

**RULING**

1. The Application before Court is dated 5<sup>th</sup> May 2015. The Applicant Respondent seeks orders:

***That summary Judgment be entered against the Claimant for the sum of Kshs. 78,204/= plus costs of this suit.***

2. The Application is based on the following grounds:

***(a) That bill of costs herein was on 17<sup>th</sup> April 2015, taxed and allowed as against the Claimant (Samuel Moyaki) in the sum of Kshs.78,204.00.***

***(b) That Certificate of Taxation was issued on 22.4.2015.***

***(c) That neither the said taxation nor the Certification of Taxation has been altered or set aside since the date of issue.***

***(d) That this Hon. Court has jurisdiction to make the orders sought.***

3. The Application is supported by the supporting affidavit of the Claimant herein dated 5<sup>th</sup> May 2015.

4. The Respondent opposed this application and filed their replying affidavit dated 8<sup>th</sup> June 2015.

5. The Respondent admitted contents of paragraphs 1, 2, 3 & 4 of the application but indicate that they had filed a Notice of Appeal over the same but it is yet to be prosecuted and they are still interested in pursuing it.

6. They want the application dismissed as the bill of costs is in the nature of Party to Party costs and not

an Advocate to Client bill of costs and that provision of Section 51 (2) of Advocates Act are not applicable to this Court.

7. I have considered submissions of both parties. I note that the application by Claimant is for a specific pecuniary claim arising out of a taxation whereby the Certificate of Taxation has already been issued by the taxing matter.

8. Under Section 51 of Advocates Act:

**1. ..” Every application for an order for the taxation of an advocate’s bill or for the delivery of such a bill and the delivering up of any deeds, documents and papers by an advocate shall be made in the matter of that advocate.**

**2. The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the Court, be final as to the amount of the costs covered thereby, and the Court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.**

9. Since this is the law, I find that the application has been proved and is merited and I allow it and enter judgment for the Applicant on the amount taxed at Kshs.78,204/=.

Read in open Court this 19<sup>th</sup> day of January, 2017.

**HON. LADY JUSTICE HELLEN WASILWA**

**JUDGE**

**In the presence of:**

No appearance for Respondent

No appearance for Claimant