



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI

MISC. NO. 111 OF 2016

(Formerly HC Misc. No. 280 of 2011)

LUMUMBA MUMMA & KALUMA ADVOCATES.....CLAIMANTS

VERSUS

ESAU RODGERS MUMIA RESPONDENT

K'Bahati for respondent/applicant

S. M. Kuyonzo for claimant/respondent

RULING

1. By a chamber summons application under Rule 11 (2) of the Advocates (Remuneration) order and pursuant to the consent order recorded on 14th February 2013. The applicant seeks to vary, review or set aside the taxation by the taxing master (Mrs. Wangila) made on 14th February 2013 on items:

a) Nos. 1 and 56;

b) Nos. 12, 15, 20, 24, 29, 33, 36 and 45.

2. The application is based on grounds that no specific amount is claimed and there is no value of the subject matter indicated. Therefore, the taxing master ought to have applied a minimum fee of Kshs.8,400 and therefore items 56 be reasonably reduced to Kshs.25,000. Furthermore, the attendances under items 12, 15, 20, 24, 29, 33, 36 and 45 should be under schedule III paragraph 7 and since no time taken during those attendances is indicated these should be adjudged "*routine matters*" and the figure of Kshs.1,000 be reduced to Kshs.210 on all items.

Response

3. The application is opposed vide a replying affidavit of Mr. Thomas K'Bahati, advocate in which he states that there is no cause to vary review or set aside the taxation on both items for the reasons that the Deputy Registrar at page 2 of the Ruling indicated the reasons for taxed amounts.

4. That in **Joreth Limited Vs. Kigano & Associates Civil Appeal No. 66 of 1999 (2002) IEA 92** it was held that where the value of the subject matter could not be determined from pleadings, judgment or settlement the taxing officer was entitled to use his discretion in assessing the instruction fees and in so

doing, will take into account;

- a) nature and importance of the case;
- b) interest of the parties;
- c) General conduct of the proceedings;
- d) Any directions of the trial Judge and or relevant circumstances.

5. That with regard to items Nos. 12, 15, 20, 24 29, 33, 36 and 45, the Bill of costs clearly indicates that the purpose of the attendance was to effect service. Only item No. 15 was taxed as drawn. That the applicant has not shown any basis for the court to interfere with the decision of the taxing master.

6. Schedule VI paragraph 9 of the Advocates Remuneration Order, (2000) provides that applicable fees chargeable for service are at minimum of Kshs.1000.

Determination

7. A careful consideration of the submissions by counsel for the parties, and the ruling of the taxing master leads the court to the inescapable conclusion that the applicant has disclosed no basis to vary, review or set aside the taxation on both items set out in the application.

8. The application is dismissed with costs.

Dated and delivered at Nairobi this 10th day of February 2017

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE