



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 36 OF 2014

(Before Hon. Justice Hellen S. Wasilwa on 8th June, 2017)

KENYA COUNCIL OF EMPLOYMENT AND MIGRATION AGENCIES.....CLAIMANT

- VERSUS -

THE NATIONAL POLICE SERVICE COMMISSION.....1ST RESPONDENT

JOHNSTON M. KAVULUDI.....2ND RESPONDENT

RONALD MUSENGI.....3RD RESPONDENT

MURSHID MOHAMMED.....4TH RESPONDENT

JOSEPH KAGUTHI.....5TH RESPONDENT

RTD. CAPTAIN WERUNGA.....6TH RESPONDENT

OJANGO OMUMU.....7TH RESPONDENT

HON. ATTORNEY GENERAL.....8TH RESPONDENT

INDEPENDENT MEDICO-LEGAL UNION.....INTERESTED PARTY

RULING

1. Before the Court is a Notice of Motion Application dated 30th March 2017 where the Applicant seeks orders that:

1. That the reference (Appeal against the decision/orders made by the Learned Deputy Registrar/Taxing Master be stayed from execution or in the interim, set aside pending the hearing and determination of this application and be substituted with orders that the bill of cost is valid.

2. That pending the hearing and determination of this reference application/appeal, this Court be pleased to set aside the Interested Party grounds of opposition dated 23rd February 2017.

3. That pending the hearing and determination of this application reference/appeal, this Court be pleased to set aside the Interested Party grounds of opposition in this reference.

4. That pending the hearing and determination of this application reference (Appeal this Court), the Court be pleased to issue an injunction against the Respondent from filing any Court pleadings, reasons being that they did not oppose the bill of cost in the taxation hence are not party in this reference.

5. That the Respondent and interested party bear the costs of this application of reference/Appeal and costs of the Taxation stage.

2. This application is supported by the following grounds as well as the annexed affidavit of the Chairman of the Applicant/Claimant Evans Nyambega Akuma authorized to act and conduct the proceedings in this Court as well as other grounds to be adduced at the hearing thereof:

1. That there is no law in the republic of Kenya that allows striking out of the bill of costs dated 11/10/2016, and the only valid way to decrease or increase would be by taxing off sums by the Deputy Registrar.

2. That the decision of the Deputy Registrar relied on Interested Party submissions dated 23.02.2017 which were filed ex parte and not served upon the Applicant for a fair opportunity to respond on the 23.02.2017.

3. That there is an obligation to serve all submissions which wasn't followed in this instance and the party should be held liable for such discrepancies.

4. That the Deputy Registrar did not appreciate the order of Justice Hellen Wasilwa and Hon Justice D.K.Njagi Marete and has no powers to review them.

5. That the taxing master had not taken into account that the Interested Party had not filed notice of objection despite several prompts to do so, and the Court ought to have overlooked them when they did.

3. He asks that the Court allow his application with costs.

4. The Applicant before this Court goes by the name of Kenya Council of Employment and Migration Agencies. I note from the bill of costs that was filed in Court on 3/1/2017 yet this case is still pending for hearing having been filed on 18/10/2014. No directions on hearing have been given by this Court and I find it is too early in time to file a bill of costs.

5. Secondly the Applicant is not an Advocate of the High Court of Kenya and this Court does not understand under which schedule the bill has been filed.

6. From the above 2 reasons it is my finding that the Deputy Registrar was right in striking out the Bill of Costs filed and I uphold her ruling and order on the matter. I direct that the parties do proceed and mention this matter before Court for directions and hearing and no Taxation of Bill of Costs be undertaken before the main suit is heard and determined.

7. Costs in the cause.

Read in open Court this 8th day of June, 2017.

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

Evans Nyabega for Applicant – Present

No appearance for Respondent

No appearance for Interested Party